listed; gallant, bold, and dashing, and yet he always struck like the thunderbolt in any cause which he championed.

His was the life of a cultured, educated man, the life of a friend who loved. I can not forget the tribute that was paid by the gentleman from Arkansas [Mr. OLDFIELD], embodying the same thought that was in my mind, when he said that usually in the field of politics, where clashing ambitions meet, where cold and selfish purpose often marks the course of public men, close and intimate friendships are sometimes regarded as being rare. And this occasion has been made notable to-day by tributes from political associates, not of a day only but of a lifetime, who associated with HAL FLOOD from the time he stepped into the halls of the university until he went out on that journey that stretches away to that shore untouched by the footsteps of mortal man—a rare tribute to him as a man and as a statesman.

The ancients had a custom when laying to rest their beloved dead of depositing in the coffin a coin to pay the ferryman to transport the soul across the mystic river. The Indians had a custom of depositing with the body the arms of the warrior and the huntsman, that he might employ them in the happy hunting grounds. When HENRY DELAWARE FLOOD went out on the final journey he carried no golden coin, he carried no rattling arms; but when HENRY DELAWARE FLOOD left his friends in this Chamber and his family in his home he carried a noble mind and a lofty soul, while yet afar the gates stood ajar. His life, his services, his character were such that he could well have said with Tennyson:

Sunset and evening star,
And one clear call for me;
And may there be no moaning of the bar
When I put out to sea;
But such a tide as moving seems asleep,
Too full for sound or foam,
When that which drew from out the boundless deep
Turns again home.

Twilight and evening bell,
And after that the dark;
And may there be no sadness of farewell
When I embark;
For though from out our bourne of time and place
The flood may bear me far,
I hope to see my pilot face to face
When I have crossed the bar.

Mr. UPSHAW. Mr. Speaker, not having heard until yesterday of this memorial service, I have no prepared tribute, and yet I feel that I would be recreant to every impulse of grateful friendship as well as a keen appreciation of the sterling qualities of a rare and outstanding man if I did not, in a very brief way, lay a flower of loving tribute upon the bier of HAL FLOOD.

I am one of the new men rejoicing to acknowledge his helpful friendship here in the House. I love to think of HAL FLOOD as he impressed me first and last as a man of unfailing courtesy, never effusive, but always gentle and winsome in his manner. He was a rare exponent of what some gifted woman said was her concept of a true gentleman, "a hand of oak in a glove of velvet; gentle to the touch, but firm when pressed."

He loved to go out of his way to make his friends glad. I can but gratefully cherish how one of his generous comments to a prominent Georgian on the work of his colleague from Georgia since coming to Congress did me splendid service in my last campaign for reelection.

I love to think of HAL FLOOD in another way. I never heard an unclean word fall from his lips in the cloakroom or in private conversation. His was a beautiful and shining example of careful speech and lofty conduct as a Member of this House as he walked among his colleagues and among these pages of tender years.

Some of us remember that story of a young officer who dashed into General Grant's headquarters, where some of the wives of the officers had been stopping for a time, and said, "General, I have the finest story to tell. Are there any ladies around?" And that sturdy old soldier said, "There are no ladies, sir, but there might be gentlemen. I believe I would not tell it."

I never heard HAL FLOOD tell a story that he could not have told if the ladies in the gallery, yea, the fair women of his home, had been present.

But I love to think of him most of all as a God-fearing man. I remember how, standing right there where my Christian friend and brother, Congressman LOWREY, sits to-day, he turned and laid his hand upon my shoulder and said: "UPSHAW, how could we get along without the churches in this country, without their saving influence in the community and their regenerating influence in our national life?" This spirit on his part perhaps is intensified to-day because I am fresh from the morning service in the House of God, where I sat by a member of the Cabinet, Secretary Davis, of the Department of Labor, and heard his earnest "amen" accompanying the reading of the Scriptures and the prayer that was offered by the pastor, Dr. H. A. Tupper, and the impact of his golden words as he brought me on to this Capitol, telling me that the influence that holds him day by day in the face of the tremendous drive of responsibilities upon him is the memory of an old-fashioned Christian mother with her wealth of sacred influence, her fervent daily prayers, and her dear old Welsh songs of hope and consecration.

More and more we love to thank God for men in public life who are God-fearing, setting a proper example for our youth to follow, for in vain do we legislate in this Hall unless we plant the laws that we make in that character that rests upon the Rock of Ages.

But, oh, my friends, we stand dumb before the mystery of his untimely death. We remember how the tears came to the eyes of many of us as we were informed that HAL FLOOD had passed away. For, as Talmage said of Henry Grady, "His sun went down at 10 o'clock in the morning of life's beautiful day."

For those who loved him with tenderest ties we are thinking of those beautiful words—

God's plan, like lilies pure and white, unfold;
We must not tear the close-shut leaves apart;
Time will reveal the calyxes of gold.
And if, by faith and patient toil we reach the land
Where tired feet with sandals loose may rest,
Where we shall know and understand,
I think that we shall say, "God knew the best."

God bless the radiant, inspiring memory of this patriotic, God-fearing statesman.

Mr. TUCKER. Mr. Speaker, my colleague, Mr. MOORE of Virginia, found this morning that he was unable to be present, on account of illness. He was very anxious to be here and expected to have been here.

Mr. HARRISON. The gentleman from Illinois [Mr. SABATH] asked me to obtain leave to print his remarks, because he would be unable to be here.

The SPEAKER pro tempore. Without objection, that leave will be granted.

Mr. WOODS of Virginia. Mr. Speaker, our colleague, Mr. SLEMP, of Virginia, was unavoidably detained and could not be here, and he desired me to ask unanimous consent that he might extend his remarks in the RECORD. I ask the same privilege for our colleague, Mr. BLAND of Virginia, who, I understand, is also unavoidably detained.

Mr. TUCKER. And for any others who desire to do so.

Mr. WOODS of Virginia. And for any others who desire to do so, that they may extend their remarks in the RECORD.

The SPEAKER pro tempore. Without objection, that request will be granted.

There was no objection.

The SPEAKER pro tempore. In accordance with the resolution heretofore adopted the House stands adjourned until Wednesday next at 12 o'clock.

Thereupon (at 1 o'clock and 45 minutes p. m.) the House adjourned until Wednesday, May 31, 1922, at 12 o'clock noon.

SENATE.

MONDAY, *May 29, 1922.*

(Legislative day of Thursday, April 20, 1922.)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Gerry	McCormick	Sheppard
Ball	Gooding	McCumber	Simmons
Borah	Hale	McKinley	Smith
Brandegee	Harris	McLean	Smoot
Capper	Harrison	McNary	Spencer
Caraway	Hitchcock	Myers	Sterling
Culberson	Johnson	Nelson	Sutherland
Curtis	Jones, N. Mex.	Newberry	Swanson
Dial	Jones, Wash.	Nicholson	Underwood
Dillingham	Kellogg	Norbeck	Walsh, Mass.
Elkins	Kendrick	Norris	Warren
Ernst	Keyes	Oddie	Watson, Ga.
Fletcher	Ladd	Page	
France	La Follette	Phipps	
Frelinghuysen	Lodge	Pittman	

The VICE PRESIDENT. Fifty-seven Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House insisted upon its amendment to the amendment of the Senate numbered 58 to the bill (H. R. 9859) making appropriations for the Post Office Department for the fiscal year ending June 30, 1923, and for other purposes; that the House further insisted upon its disagreement to certain amendments of the Senate; agreed to the further conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. SLEMP, Mr. MADDEN, and Mr. SISSON were appointed managers at the further conference on the part of the House.

PETITIONS.

Mr. CAPPER presented petitions of sundry citizens of Iola, Kans., praying that only a moderate duty on kid gloves be imposed in the pending tariff bill, which were referred to the Committee on Finance.

He also presented a resolution adopted by the Chamber of Commerce of Salina, Kans., favoring the passage of the so-called ship subsidy bill, which was referred to the Committee on Commerce.

Mr. NICHOLSON presented a petition signed by 108 citizens of the State of Colorado, praying that only a moderate duty on kid gloves be imposed in the pending tariff bill, which was referred to the Committee on Finance.

PORT OF NEW YORK AUTHORITY.

Mr. NELSON, from the Committee on the Judiciary, to which was referred the joint resolution (S. J. Res. 171) granting consent of Congress and authority to the Port of New York Authority to execute the comprehensive plan approved by the States of New York and New Jersey by chapter 43, Laws of New York, 1922, and chapter 9, Laws of New Jersey, 1922, reported it with amendments and submitted a report (No. 726) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McCUMBER:

A bill (S. 3656) for the relief of Gustav A. Lieber; to the Committee on Claims.

A bill (S. 3657) to authorize surveys and investigations for irrigation projects in the State of North Dakota, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. FRELINGHUYSEN:

A bill (S. 3658) for the relief of John O'Neil; to the Committee on Claims.

By Mr. PHIPPS:

A bill (S. 3659) to create the White House police force, and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. SMOOT:

A bill (S. 3660) to provide adjusted compensation for veterans of the World War, and for other purposes; to the Committee on Finance.

AMENDMENTS TO HOUSE RIVER AND HARBOR BILL.

Mr. JONES of Washington submitted an amendment providing that any work of improvement or public work on canals, rivers, and harbors heretofore adopted by Congress may be prosecuted by direct appropriations, by continuing contracts, or by both direct appropriations and continuing contracts, as may be provided in any act making appropriations to carry on such works, intended to be proposed by him to the bill (H. R. 10766) authorizing appropriations for the prosecution and maintenance of public works on canals, rivers, and harbors, and for other purposes, which was referred to the Committee on Commerce and ordered to be printed.

Mr. SHEPPARD submitted an amendment providing for improvement works at Corpus Christi, Tex., in accordance with the report submitted in House Document No. 321, Sixty-seventh Congress, second session, intended to be proposed by him to the bill (H. R. 10766) authorizing appropriations for the prosecution and maintenance of public works on canals, rivers, and harbors, and for other purposes, which was referred to the Committee on Commerce and ordered to be printed.

Mr. CULBERSON submitted an amendment providing for improvement works at Corpus Christi, Tex., in accordance with the report submitted in House Document No. 321, Sixty-seventh Congress, second session, intended to be proposed by him to the bill (H. R. 10766) authorizing appropriations for the prosecution and maintenance of public works on canals, rivers, and harbors, and for other purposes, which was referred to the Committee on Commerce and ordered to be printed.

RETURN OF AMERICAN ARMY EQUIPMENT FROM GERMANY.

Mr. FRELINGHUYSEN submitted an amendment intended to be proposed by him to the bill (S. 3562) to provide for the return from Europe of motor-propelled vehicles and other equipment used by the American forces in Germany for distribution to the State highway departments, and for other purposes, which was referred to the Committee on Military Affairs and ordered to be printed.

AMENDMENT TO WAR DEPARTMENT APPROPRIATION BILL.

Mr. FRELINGHUYSEN submitted an amendment proposing to appropriate $9,227.22 for payment to the Borough of Cresskill, N. J., of 50 per cent of the cost of the repair and restoration of the drainage canal, of Grant Avenue, and of the grounds around the railroad station in such borough, as compensation for all damages thereto resulting from the military occupation of Camp Merritt, intended to be proposed by him to House bill 10871, the War Department appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

THE TARIFF.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7456) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes.

Mr. LODGE. Mr. President, I know that nothing is in order but to call the roll on the appeal from the decision of the Chair. However, I have been examining the question with such care as I could since the Senate took a recess, and I should like very much if the Senate would grant me unanimous consent to say a few words upon the point of order.

The VICE PRESIDENT. Is there objection? The Chair hears none. The Senator from Massachusetts will proceed.

Mr. LODGE. The question of order which was raised upon the motion made by the Senator from Montana [Mr. WALSH] to substitute 15 per cent instead of 35 per cent as agreed to by the Senate, was taken up on Saturday and not completed. I desire to say a very few words upon that subject, to which I have given the best consideration I could.

It is not a question of precedent. I have no doubt different precedents might be found. It has seemed to me a question involving general parliamentary law. I have looked at the authorities, and I have two of the best from which I shall quote to the Senate.

This was the situation: The text of the bill before the Senate carried on this item a rate of 30 per cent. The committee reported an amendment making the rate 40 per cent instead of 30 per cent. That was the pending amendment, the committee amendment being first in order. The Senator from Utah [Mr. SMOOT] then moved to amend the amendment by striking out "40" and inserting "35." It was a motion to strike out and insert. When I spoke upon it, I called attention to the general and unquestioned parliamentary rule that when a body on a motion to strike out and insert inserted certain words, those words could not be changed at that stage of the bill; that is, they could not be changed as in Committee of the Whole. But it seemed to me, and I so argued briefly, that there was a distinction to be drawn between an amendment to the text and an amendment to an amendment, the motion being to amend by striking out and inserting.

The Senate agreed to strike out "40" and insert "35." That amendment was adopted. Then the question arose whether that amendment could be further amended after the action of the Senate, or whether the general rule applied. My impression was very strong at the time that the general rule did not apply to an amendment to an amendment.

The question is by no means a simple one nor is it free from difficulty. However, I turned to the authorities, to Cushing, which I take it is the highest authority or one of the highest. This is a recent edition, and on page 527, in section 1337, under the heading "Amendments by leaving out and inserting," it is said:

> If the first question is decided in the affirmative, all amendment or alteration of the words thus agreed to is precluded in the same manner as if the motion has been simply to leave out the same words. Nor can a motion be then made to leave out for the purpose of inserting the same, or even different words; the words of the original motion being already agreed to as they stand.

Now turning to "Amendment by inserting words," to which section 1337 refers, and reading section 1332, it is stated that—

> This is the second form in which amendments may be made; and when an amendment is proposed in this form, if it prevails, it can not be afterwards moved to leave out the same words or a part of them; but it may be moved to leave out the same words, with others, or a part of the same words, with others; provided these propositions are substantially different from the first.

I then looked at Reed's Rules. Mr. Speaker Reed was a very great parliamentarian and also a very distinguished lawyer and had had a very extended experience in dealing with parliamentary questions. I think there can be no higher authority. On page 102 he said:

SEC. 143. Motion to strike out and insert—effect of affirmative action—if the motion to strike out and insert prevails—

As it prevailed on the motion of the Senator from Utah to strike out "40" and insert "35"—

then the words inserted, or any of them, can not be stricken out.

This, however, does not preclude the insertion of the same with other words, or a part of the same words with others, or to strike out the same words with others, or part of the same words with others.

That is a repetition of Cushing.

To state this in another form, the prevalence of the motion to strike out and insert does not prevent further use of the motion to strike out and the motion to insert, but the decision of the assembly already made must not be overthrown, though it may be modified.

For example, this being, as I recall, an ad valorem rate, if a motion had been made to add at the same point a specific duty of 10 cents a pound, or whatever it may be, under the law as set forth in these authorities that motion or any similar motion which would modify, perhaps, the purport of the amendment adopted by the body would be in order, but the precise words adopted must remain. So I understand the law as laid down by Cushing and Reed.

The motion made by the Senator from Montana was to insert "15" in place of the precise words already adopted by the Senate. It was not a modifying motion, or one changing the purport of the amendment. It was a motion to strike out the precise words adopted by the body; and that motion, I am forced to think on studying the rules, was precluded. As after consideration I came honestly and frankly to that opinion, I thought I ought to state it with equal frankness to the Senate; and I am obliged to the Senate for permitting me to do so.

Mr. ASHURST. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Arizona?

Mr. LODGE. Yes; I yield.

Mr. ASHURST. Mr. President, I have listened with interest and respect to the citation of the authorities presented by the distinguished Senator from Massachusetts [Mr. LODGE], but the reasoning in his short speech last Saturday evening, May 27, as found on page 7801 of the CONGRESSIONAL RECORD, is so conclusive that I am obliged to say that his views as there expressed have more weight with me than Cushing and Reed, because I am unable to overcome the force of the Senator's reasoning and I shall now read his views as found in the left-hand column of page 7801 of the CONGRESSIONAL RECORD. The Senator said:

In this case—

Referring to the amendment tendered by the Senator from Montana [Mr. WALSH] to the committee amendment which had already been amended—

In this case the body has reached no final agreement on the form of words. It is still dealing with an amendment. If the body had agreed to 35 per cent, it would not be open to amendment; but the body has not agreed to 35 per cent. It has only agreed to substitute it in preference to 40 per cent. The final vote is still ahead of us. The body has not finally agreed on 35 per cent; and therefore, this being an amendment, and no final agreement on the form of words having been reached, it seems to me that it is open to further amendment.

I should like to see the Senator from Massachusetts now stand by the reasoning evidenced by those words which he expressed on last Saturday evening. The force of the Senator's logic as applied Saturday is irresistible and unanswerable.

Mr. LODGE. Mr. President, the undoubted purpose of the general parliamentary law in precluding further amendment when a word or words have been adopted by the body is very clear. It is to carry out what must always be the main object of the parliamentary law, to bring the body to a decision, which leads to the transaction of business in accordance with the wishes of the body.

As I stated at the beginning, my view—in fact, the position I took in the words which the Senator from Arizona has just read—was that there was a distinction between the rule as applied to an amendment to the text where the action of the body would be final as to the words inserted and an amendment in the second degree to an amendment; but, Mr. President, after having studied the authorities, as I have, and having reflected upon the subject, it seems to me clear that the accepted practice is to apply to an amendment in the second degree the same general principle which is applied to a change of the text.

Mr. ASHURST. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Arizona?

Mr. LODGE. I yield.

Mr. ASHURST. I feel a trepidation about engaging in a contest over a parliamentary question with the Senator from Massachusetts, whose experience and knowledge respecting parliamentary law are great; but I wish to show the Senator just where his philosophy of this morning would lead the Senate. We will assume, Mr. President, that the House of Representatives sends us a bill proposing to construct a railroad in Alaska and that that body fixed the mileage of the railroad at 30 miles. The proper committee of the Senate amends the House provision and provides that the number of miles shall be 40 miles—I am employing the same figures as are employed in the bill before us—and just as soon as the bill comes in here a member of the committee moves to strike out "40 miles," which the committee recommends, and to insert "35 miles," and that that amendment is agreed to, as was done in this case. Then, according to the philosophy the Senator from Massachusetts employs this morning, the Senate is precluded from changing that mileage, although it should be ascertained that the correct mileage would be 18 miles.

Mr. LODGE. Precluded at that stage.

Mr. ASHURST. Of course, the Senator will argue that when we left the Committee of the Whole and went into the Senate we may disagree to that.

Mr. LODGE. I should argue that when we reached the Senate the previous action could be reconsidered.

Mr. ASHURST. When we reach the Senate; but that would mean that the Committee of the Whole, set up by the parliamentary law and designed to whip bills into proper shape, would be deprived of one of the functions for which the Committee of the Whole is set up, and although we learned that the correct mileage would be 15, we should have to wait until we got into the Senate to make the correction.

I will use another illustration: Suppose, Mr. President, the House should send us a bill providing for the creation of a national park in Porto Rico, fixing the area at 30 square miles, but the Senate committee amends the numeral to read 40 square miles, and then some Senator obtained the floor and moved to reduce it to 35, which was carried. If then the Senate should learn that the proper number of square miles to be embraced in the park was 15, we would in that case be precluded from correcting the bill, according to the philosophy of the Senator.

If that should be held to be the correct practice, it would be destroying the very reason why we have a Committee of the Whole.

I am sorry the Senator from Massachusetts does not stand rigidly by his expression which I read, although there may be, Mr. President, a higher courage in changing one's mind when one thinks one is wrong than to stand by error; and, if the Senator believes that he was in error on Saturday night, I pay my tribute of respect to him for changing his mind; but I believe that if he should anchor himself fast to his view as laid down by him on page 7801 of the RECORD Saturday evening, he will find that the business of the Senate will be promoted.

Mr. LODGE. Mr. President, I am sorry to take up so much time, but I should like to emphasize the purpose which underlies general parliamentary law, which is to promote the transaction of business. For instance, it is universally forbidden in all parliamentary bodies to offer an amendment in the third degree. The object of that rule is to provide some limit, for if there were no limitation on the number of amendments which might be offered simultaneously there would be no——

Mr. ASHURST. Mr. President, will the Senator yield?

Mr. LODGE. I should like to finish my sentence—there would be no end to the offering of amendments, one on top of the other, and it would lead to confusion and delay. That is the purpose of the general rule. The question involved in this instance is much narrower. It is whether the general law, which is incontestable, applies to an amendment in the second degree as well as to an amendment to the general text. After examining the authorities as well as I could, I came to the conclusion that I was mistaken in the argument I made on Saturday, and that when the amendment offered proposed to change the precise words adopted by the body it fell under the general rule, just as much in the case of an amendment in the second degree as in the case of an amendment to the original text. Therefore, I thought it was only fair to state the conclusion at which I had arrived.

Mr. FLETCHER. Mr. President, may I ask the Senator a question before he takes his seat? Has this thought occurred to the Senator, on this state of facts:

The committee brings in a proposed amendment to the bill. The committee has the right to perfect its own amendment. It has the right to withdraw that proposal and submit another proposal.

Mr. LODGE. It has a right to do it until it has been laid before the body.

Mr. FLETCHER. Now, the committee lays that amendment before the body. The committee then comes in and proposes to change its own amendment; and what we have done is simply to allow the committee to change its own amendment.

Mr. LODGE. Oh, no, Mr. President; I beg the Senator's pardon. The committee amendment was the pending amendment. A member of the committee moved to strike out and insert.

Mr. FLETCHER. Was not that the action of the committee itself?

Mr. LODGE. It can not be distinguished. The right of modification ceases when the amendment is once laid before the Senate.

Mr. FLETCHER. I realize that; but my impression is that the Senator from Utah was acting on behalf of the committee when he was proposing a reduction to 35 per cent.

Mr. LODGE. He was, Mr. President, acting on behalf of the committee. He made a motion to strike out and insert, and the Senate voted on it and sustained his motion.

Mr. FLETCHER. Of course, he had the right to do it, anyhow.

Mr. LODGE. No; he had no right to do it except by vote.

Mr. DIAL. Mr. President——

Mr. LODGE. I yield to the Senator from South Carolina.

Mr. DIAL. Then, as I understand the Senator, the remedy would be to vote down the proposed amendment——

Mr. LODGE. That remedy, of course, we have.

Mr. DIAL. In this instance the one proposed by the Senator from Utah, until we get an amendment that suits us?

Mr. LODGE. Of course; and in a case which is not directly in point here, but which indicates the purpose of parliamentary law, where there are several figures for an appropriation for the length of a railroad or anything you please, there is provision in parliamentary law for those figures to be offered seriatim, beginning with the highest. That was not done in this case.

Mr. DIAL. I understand we have a remedy, then.

Mr. McCUMBER. Mr. President, it seems to me, as it seemed before, that the question is a very simple proposition; that when a legislative body stamps its legislative judgment upon a precise point, its judgment stands unless there is a reconsideration of the vote by which its judgment has been impressed. When the majority of the Senate inserts a word, that is the action of the Senate, no matter who makes the proposition to insert the word; and after the Senate has voted on it and declared in favor of that motion it is the action of the Senate until it is changed either by a reconsideration of the vote or modified, which can be done by some other modification without a change of the thing upon which the Senate has acted.

Let me give an illustration for the benefit of the Senator from Arizona [Mr. ASHURST].

Suppose we report an amendment, and the amendment contains the conjunctive word "and," but we afterwards consider that "and" ought to be changed and the disjunctive word "or" inserted; so we move to strike out the word "and" and we insert the word "or." When we have voted upon that, we have fixed the word "or."

Mr. ASHURST rose.

Mr. McCUMBER. Let me finish this statement, because I am giving the exception where you can change it. You can not take the word "or" out of that amendment without a reconsideration of the vote while it is before the Committee of the Whole; but you can add after the word "or" some modification, or certain conditions, and in that way you can secure a modification. You can not, however, take out the word "or," because the Senate by a majority vote has put it there, and if you did not want it there you should have had a majority vote against it. So that matter is fixed. It has been put in by the action of the Senate. Never mind the committee, because when the Senate acts upon it once it is a Senate action. The Senate, by a majority vote, says: "We want it 35 per cent ad valorem." That disposes of the question of the 35 per cent.

The Senator was complaining that a minority would have no opportunity. They have every opportunity. If they did not want "35 per cent" in the bill, they should have voted down the proposed amendment of 35 per cent. Then it would have been subject to a motion to make it 15 per cent, or 10 per cent, or any other per cent; but it has to be done by voting down the proposition, because the majority certainly have the right to determine what shall go into the bill; and having once expressed their opinion, under every principle of parliamentary law you can not change that opinion except by a reconsideration of the vote.

Mr. ASHURST. Mr. President, in reply to the Senator, his argument would be sound if the Senate had adopted the amendment as amended.

When the Senate adopted the amendment of the Senator from Utah, and struck out "40" and inserted "35," the Senate did not adopt the figure "35." The question still was pending, and the Chair must put it:

The question is on agreeing to the amendment as amended.

Here is where a great deal of difficulty has arisen: Senators believe that because an amendment was offered to an amendment and was adopted, any further amendment is an amendment in the third degree. Not at all.

I do not care to prolong this debate. I have made my view plain, and I am satisfied to have the record stand as it does.

The Senator says that if the committee brings in a bill with the word "and" in it, it may strike out "and" and insert "or," but that thereafter it may not insert "but" instead of "or." That is what the Senator argued——

Mr. McCUMBER. Mr. President, the Senator is mistaken. I simply say that when the Senate has agreed by a majority vote to insert the word "or," the word "or" must stay there, and that you can not without a reconsideration of the vote strike out "or." You can put in "but" after "or," if you want to; but the Senate having placed "or" there, that is the action of the Senate, and you can not vote on the same thing again without reconsideration.

Mr. ASHURST. The Senator can convince me if he will tell me when the Senate adopted the committee amendment as amended. If the Senate had adopted the committee amendment as modified by the Senator from Utah, that would be the end of it; but the question was still pending, and that was the question that the Chair put, and must put, to wit:

The question is on agreeing to the amendment as amended.

The Senate does not adopt it until it agrees to that amended amendment.

Mr. McCUMBER. Why, Mr. President, the Senate has not agreed to the entire amendment; no.

Mr. ASHURST. That is all I want the Senator to concede.

Mr. McCUMBER. Oh, certainly; but the Senate has agreed by a vote that "35" shall take the place of "40," and that is the only thing that the Senate has absolutely decided at this time; and my position is that it can reconsider the vote by a majority vote and change it again, but unless that vote is reconsidered it has to stand, and there can be no question about it.

Mr. ASHURST. Yes, Mr. President. A motion to reconsider can be made but once.

Mr. JONES of New Mexico. Mr. President, I should be glad to have some one explain to me the final result of such a ruling as is contended for by the Senator from Massachusetts. I have been inclined to agree with the general proposition as announced this morning by the Senator from Massachusetts [Mr. LODGE]; but I should like to inquire if such a position will preclude the Senate from getting a vote at any time, either in Committee of the Whole or in the Senate, on a different rate?

The Senator from Montana [Mr. WALSH] offered an amendment fixing the rate at 15 per cent instead of 35 per cent. It seems to me that somewhere in the proceedings the Senate ought to have a right to vote upon that question, and, if I understand the present position of the Senator from Massachusetts, the Senate would be precluded from doing that.

We are in this parliamentary predicament: The Senator from Utah moves to amend by striking out "40" and inserting "35." Those of us who think that the 40 per cent rate is too high would, or course, rather have the "35" than the "40," but we are also of the opinion that it should be lower than the "35." In voting for the "35," in order to avoid the "40," we preclude ourselves from getting an opportunity to vote for "15" and I should like to know if there is some way out of it, either by reserving a separate vote in the Senate or in some other way, whereby we can ultimately get an opportunity to vote on the rate of 15.

Mr. LODGE. Of course, a vote can be reserved in the Senate.

Mr. JONES of New Mexico. When we come into the Senate, then the question is on concurring in the rate adopted as in the Committee of the Whole.

Mr. LODGE. In the Senate an agreed-upon amendment is open to change, if you reserve it.

Mr. JONES of New Mexico. What do we reserve? Do we not simply reserve the right to have a separate vote?

Mr. LODGE. You reserve the right to have that question presented separately, and when it is presented it is open to amendment.

Mr. JONES of New Mexico. If that is the rule, it will relieve the difficulty.

Mr. LODGE. In the Senate not at this stage, and, of course, the amendment providing the lower rate would have been entirely in order if it had been offered first.

Mr. HITCHCOCK. Will the Senator permit a question? Suppose it comes up in the Senate and the question is on concurring in the amendment adopted as in Committee of the Whole; the Senator holds that then it would be open to any amendment?

Mr. LODGE. It would be open to any amendment.

Mr. HITCHCOCK. Suppose an amendment were offered to make it 30 per cent; would that, again, prevent anyone from offering an amendment making it 15 per cent?

Mr. LODGE. Yes; if it was adopted by the body.

Mr. HITCHCOCK. So it is a question as to the Senator getting the floor first. It is quite possible, then, to prevent a vote upon an amendment proposing 15 per cent in any event, if that is the correct ruling.

Mr. McCUMBER. It can always be voted down if the Senate wants to change it.

Mr. HITCHCOCK. There would be some disadvantage in the matter, even in the Senate, if the chairman of the committee or a member of the committee should first get the floor, and move to reduce it to 34 per cent; then it would be a question as to whether it should be 34 or 40 per cent, and if it should be carried at 34, according to the statement now made, it would preclude any Senator from offering 15 per cent as a substitute.

Mr. McCUMBER. Of course the Senator understands that in all such cases those who do not want 34 per cent but want less than that would vote against it, and seek to vote it down, and if they did not vote it down, then, of course, the 34 per cent rate would have to stand.

Mr. HITCHCOCK. It compels a person voting to decide between 34 and 40, then.

Mr. McCUMBER. Such situations arise as to all legislative matters.

Mr. HITCHCOCK. It seems to me that there should be an opportunity at some time to present the 15 per cent rate and have a vote on it.

Mr. LODGE. Mr. President, it is possible to use that which is laid down in Reed's Rules, and which I have heard ruled:

If, for example, it were proposed to put in various sums ranging from $1,000 to $5,000, and an amendment for $3,000 were put first, those who desired to have $5,000 appropriated might not dare to vote against $3,000 for fear that they might get less. But by putting the question first on the largest sum and then on the others the assembly stops where a majority of the voices agree.

Mr. JONES of New Mexico. It seems to me, then, Mr. President, that it is just a question of getting the floor first or who is recognized by the Chair first.

Mr. LODGE. The question is whether it is agreed to or not. There must be an end to amendments on the same words at some point. If the same words are adopted by the majority of the body, that is the opinion of the body. My attention has just been called to Jefferson's Manual, where I find the following:

In Senate, January 25, 1798, a motion to postpone until the second Tuesday in February some amendments proposed to the Constitution; the words "until the second Tuesday in February" were struck out by way of amendment. Then it was moved to add "until the 1st day of June." Objected that it was not in order, as the question should be first put on the longest time; therefore, after a shorter time decided against, a longer can not be put to a question.

Here a shorter can not be put in question, or a longer, either, after the body had agreed on 35 per cent; and those precise words, I think, can not be changed under general parliamentary law, though their purport may be modified, all the authorities say, by additions not touching those words.

Mr. JONES of New Mexico. I am rather inclined to believe that the precedents cited by the Senator are applicable.

Mr. LODGE. They refer to a date and not to a rate.

Mr. CURTIS. Mr. President——

The VICE PRESIDENT. Does the Senator from New Mexico yield to the Senator from Kansas?

Mr. JONES of New Mexico. I yield.

Mr. CURTIS. I merely wish to call the Senator's attention to a ruling in Jefferson's Manual which, it seems to me, settles this whole question:

But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B; in which case those who preferred it would join in rejecting A.

Mr. JONES of New Mexico. Mr. President, I am familiar with that citation, but it seems to me that we are in a very unfortunate parliamentary position. Of course, anyone who prefers the 15 per cent rate would prefer the 35 per cent rate to the 40 per cent rate, but not being satisfied with the 35 per cent would have to vote against the motion to insert "35" instead of "40," and would be put in the position of voting against a lower rate. Somehow, somewhere, it seems to me we should have an opportunity to record ourselves as in favor of a still lower rate. I presume, if this ruling is to obtain, those of us who want a lower rate would have to depend on the courtesy of the Senate to get the floor and debate a motion for a little lesser amount. It seems to me it is an awkward position that we are placed in, because we ought to have an opportunity somewhere, sometime, to record ourselves in favor of a lower rate, but this puts us in the attitude of actually voting for a higher rate than that which is proposed.

Mr. SMOOT. Mr. President, I call for the regular order.

Mr. UNDERWOOD. I hope the Senator will withhold his request for a moment, for I desire to say something in reference to this matter. I think it is of importance, and I hope the Senator will not insist on the regular order.

Mr. SMOOT. As soon as the Senator from Alabama concludes I shall ask for the regular order.

Mr. PITTMAN. Will the Senator from Alabama yield to me for a moment?

Mr. UNDERWOOD. I yield to the Senator from Nevada.

Mr. SMOOT. Does the Senator from Alabama yield for a speech by the Senator from Nevada?

Mr. UNDERWOOD. The Senator from Nevada is the proponent of this proposition and he has not had the floor. I intended to say something about it, and I want to say something; but if the Senator from Nevada can not get the floor otherwise, I will yield it to him.

Mr. PITTMAN. The only reason why I asked permission interrupt the Senator was on account of the discourtesy of the Senator from Utah, which I had no way of calling attention to except by the method I have adopted. He announced that as soon as the Senator from Alabama concluded he would call for the regular order. We have been proceeding by unanimous consent, and I do not think it has been time thrown away. I do not think it has been a filibuster on the part of the Senator from Massachusetts [Mr. LODGE]. I think it has been a very intelligent discussion, and this is a very close question of important parliamentary law.

I desire to say, however, that so far the debate has not really touched the question which has been before the Senate, except indirectly. It may embrace it, it is true, but the question is not upon the motion of the Senator from Montana to make the rate 15 per cent ad valorem. The question is on the motion of the Senator from Nevada to substitute a specific rate for the ad valorem rate, and while it may involve the same principle, it is worthy of some consideration for a few minutes, notwithstanding the great energy of the Senator from Utah.

I shall not interrupt the Senator from Alabama any further, but after he has finished I will also ask unanimous consent to be allowed to explain the amendment I have offered, and which now is under consideration on the point of order against that amendment; and if the distinguished Senator from Utah then demands the regular order, I shall discuss it after the vote is taken.

Mr. SMOOT. The Senator ought to have waited until he had asked unanimous consent before he charged the Senator from Utah with any discourtesy.

Mr. PITTMAN. The Senator stated that as soon as the Senator from Alabama was through——

Mr. SMOOT. I thought the discussion was over.

Mr. PITTMAN. The Senator went further, and asked if the Senator from Alabama was yielding to me for a speech. Why? It was for the very purpose of cutting off the speech. There was no other purpose, if there was any intelligence in it at all.

Mr. SMOOT. I wanted to know just exactly where it was going to lead. I did not know that the Senator was the proponent or the originator of this question. Of course, if I had, I would not have interposed.

Mr. PITTMAN. The point of order was made against the amendment of the Senator from Nevada, and that is the question pending now. I appealed from the ruling on that question, and I certainly should have the courtesy of being allowed to speak on it.

Mr. UNDERWOOD. Mr. President, as the Senator from North Dakota withdrew his motion to lay the appeal on the table, I do not understand it is not subject to discussion, because, as I understand, an appeal from a ruling of the Chair is open to discussion, and, therefore, I think the debate has not been closed. But I am not raising that question. I think this matter is of too much importance not to allow those who desire really to express their viewpoint on the question to be heard.

I am not at all critical of the impatience of those in charge of the bill. I realize, as I have said many times before, that they have a very trying situation to handle. They bear the burden of putting the bill through, and having to stay here from 11 o'clock in the morning until 10 at night and carry this load, I do not criticize them at all for wanting to hurry the bill along or thinking that many motions are made to kill time. Of course, from their viewpoint they think that if we offer an amendment for 35 per cent, and it is voted on, and then offer one for 15 per cent, we might offer one for 5 per cent and vote interminably on one proposition. That is due to the fact that we have no cloture rule in the Senate. In any other parliamentary body, when those in the majority get ready, they can move a cloture and close the debate and close the consideration of the amendment. That power the Senate does not possess.

My desire to discuss this question now is not because I want to delay the passage of this bill. As I have said before, I think the bill should be carefully discussed, and then we should vote on it. It is a great economic measure, which should be properly considered. It is also a political measure, and from the standpoint of politics I have never had any doubt as to the effect of the passage of this bill. I think it is a complete asset to those in opposition to it.

Looking at the question now strictly before the Senate, this amendment has not been agreed to by the Senate. The pending question is as to whether the Senate will agree to the amendment. The proposed amendment has been modified. It makes no difference in its parliamentary status as to whether it comes from the committee or from an individual, except that by unanimous consent we agree that nothing but committee amendments should be considered at this time. That is the only difference. An amendment is proposed, and some one offers to amend the amendment. The amendment is amended, and then the question pending before the Senate is, Shall the Senate agree to the amendment as amended?

If the action on the amendment to the amendment settled the question, and it could be amended no further, why should we vote on it again? When they substituted the 35 per cent for 40 per cent, why was that not final, if that is the only action the Senate can take? Why should we go through the formality of taking two votes instead of taking only one?

I contend that that is not final, and that after the amendment to the amendment has been agreed to it is open to further amendment, and that is conceded by the argument of the Senator from Massachusetts [Mr. LODGE] to-day, when he says that in certain cases the amendment carrying the greater amount should be presented first.

But, Mr. President, as the Senator from Nevada has just pointed out, the pending amendment is not a question of changing figures. The figure "35" was voted on by the Senate as an amendment to an amendment. Now, the Senator from Nevada proposes to change the manner of taxation, to substitute for an ad valorem rate of 35 per cent, a specific rate of so much per pound. Mr. President, that is an entire change in the form of taxation. It is an entire difference in theory. On some articles it is found that it is better to levy a specific rate of so much a pound. On other articles it is found that it is more advantageous from a revenue collection standpoint to levy an ad valorem rate, and let the rate follow the substance in value.

Now, to say that when the Senate agrees to the proposition of amending an amendment as to amount it ends the right of action by the Senate to say that we will not have an ad valorem rate, but we want to tax this commodity under a specific rate, it seems to me avoids all opportunity for amendment or debate. I do not charge Senators on the other side with attempting to gag the Senate, because I know that is not their purpose. They have become weary and tired of the long drawn out fight on the tariff which always comes in the Senate. When the present law came over from the House, it came before the 1st of May and it went to conference, I think, on the 22d day of September; at any rate late in September. Then the political situation was reversed. The same thing happened with reference to the Payne-Aldrich law, and every other tariff bill that has come from the House. It tries the patience of us all, but that does not mean that there is an effort to filibuster or unduly delay.

Mr. SHEPPARD. Mr. President, may I ask the Senator a question?

Mr. UNDERWOOD. Certainly.

Mr. SHEPPARD. Does the Senator think there ought to be a rule against amendments in the third degree?

Mr. UNDERWOOD. Yes; I think so, because otherwise it would bring confusion; but I was coming to that question. I have heard here repeatedly when an amendment was pending to a committee amendment and another amendment was offered some one say, "That is an amendment in the third degree and you can not offer it now," and the Chair would reply, "When the pending amendment to the amendment is voted on, then the Senator can offer his amendment as an original proposition."

Mr. SHEPPARD. It can be voted down and——

Mr. UNDERWOOD. Whether the first amendment is voted down or agreed to, it does not settle the question. I ask the Chair to bear with me for a moment because I am very earnest about the matter. I am not arguing from the standpoint of political debate. I fear that if the ruling of the Chair on the amendment proposed by the Senator from Nevada to change this rate from an ad valorem to a specific rate is sustained by the Senate, it will become a precedent that will not only hamper us in the consideration of this bill, but in all future efforts of the Senate to express its own viewpoint when someone can propose an amendment and get a majority to vote for and cut off the consideration of other amendments. That is not in accord with the present ideas of the Senate so far as its rules are concerned.

Mr. SIMMONS. Mr. President, will the Senator yield?

Mr. UNDERWOOD. Certainly.

Mr. SIMMONS. Under this ruling I do not mean to say that the chairman of the Finance Committee would, but he could come in every morning and, if an item were called, he could offer to reduce the rate 1 cent and have a vote on it and no one else could then move to reduce it any further until the bill got into the Senate.

Mr. UNDERWOOD. Undoubtedly. I want to call the Chair's attention to one or two items which this would affect.

The House in one of the paragraphs of the bill fixed a rate of 10 per cent on graphite. The Senate committee struck that out and in place of it inserted a paragraph providing 10 per cent on amorphous graphite and 20 per cent on crystalline graphite and other provisions in the amendment. The Senator from Michigan [Mr. TOWNSEND] some days ago announced that he thought this ought to go on the free list, and when the time came, thinking there would be a time, that he proposed to move to strike out the action of the committee and to put the item on the free list. If the Chair holds, because that amendment has been adopted in place of the House text, that it is not subject to further amendment, how can we strike it out and place it on the free list?

Let me call attention to another item. The Senate adopted an amendment to the iron and steel schedule in paragraph 301. The House had scrap iron and pig iron taxed at $1.25 a ton, but in order to lower the duty on scrap the Senate committee inserted the words "$1.25 per ton" after pig iron and then changed the rate on scrap iron. That has been agreed to by the Senate, not merely amending an amendment, but as amended it has been agreed to by the Senate. Yet I stated when that question was under debate that when the proper time came I would move to strike out the rate entirely and to place it on the free list.

Now, is that rate adamant, and can it not be changed? Of course, the reason why I could not move to put it on the free list the other day was because, through courtesy to the chairman of the committee, we had granted him the right to have the committee amendments considered first. Of course, we could have objected and insisted on having all amendments considered in confusion, but he asked for his own purposes that only committee amendments be first considered. When we voted in the rate of $1.25 upon the pig iron under the pending agreement in the Senate, I could then go no further, but I gave notice that when the proper time came I desired to strike out $1.25 and put the article on the free list. I can not see much difference between striking out "35" and making it "15" and striking out "$1.25" and making it nothing.

I think if the Chair sustains the point of order—and I do not say this in criticism either of the Chair or the other side of the Senate—the effect of what it will do in reference to the bill will be to gag the Senate in its effort to really express its viewpoint. I do not care to offer any amendment by courtesy of the other side—not that I object to their courtesy. The other side of the Chamber has always treated me with great courtesy, and I appreciate it, but when I am on the battle line fighting I do not want to fight by leave of my opponent. I want the privilege of fighting on my own feet. When the time comes, if the Chair shall sustain this point of order, then anybody on the other side of the Chamber would have the right, when I move to strike out "$1.25" and put the product on the free list, to say, "I make the point of order that that rate has been adopted, that it is adamant, and it can not now be changed." Then we would have to go to the country that way. I realize on this particular bill it would not make any difference. Of course, I know the majority side of the Senate are going to keep the bill

as it is, but I think I am entitled to the right, when the time comes, to test the sentiment of the Senate and to go to the country on it. That is the purpose of these amendments. This is a great issue. There has been a vast change of sentiment in the country in regard to customs legislation, and that question is going to the country in the approaching campaign. Senators on both sides of the Chamber have a right to have the roll called on their amendments so that all Senators may be put on test as to their position. That is one of the rights of the minority even under the House rules. I served under Mr. Reed when he was called the Czar of the House, and yet I have never known the time when Tom Reed, of Maine, denied the right to the minority to propose an amendment in an instance of this kind and to have a vote on it. He cut off debate; he cut off dilatory tactics; but on the fundamental question of presenting their viewpoint to the country the minority had the opportunity to do that; yet this ruling, if insisted upon, will undoubtedly deprive the minority of the opportunity of making the test before the country on very material questions, involving many amendments more material than the question of whether or not pig iron should be on the tax list at $1.25 a ton or on the free list. In this instance the motion involves not merely the changing of the rate, but it goes to the question of whether or not this article of wire shall be taxed at an ad valorem rate or at a specific rate. That is the real question which is involved in the controversy.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from North Dakota will proceed.

Mr. McCUMBER. Mr. President, in the 23 years during which I have been a Member of the Senate I do not think there has ever been a single instance where the Senate has directly voted to change a rate after striking out a particular rate and inserting something else except upon a reconsideration of the vote by which in the first instance the rate was agreed to or by unanimous consent.

Mr. PITTMAN rose.

Mr. McCUMBER. Just let me finish the sentence. It will only take a minute. I want to make this point clear.

The Senator from Alabama [Mr. UNDERWOOD] has tried to argue that under the ruling of the Chair the minority will not get its rights. The right of the minority is to have a vote upon the question which is presented; and if that question does not present the contention in the right way the minority have, or any Senator has, a right to argue that that ought to be voted down so that they may offer an amendment fixing some other rate.

As the amendment came into the Senate it proposed to fix 40 per cent ad valorem as the rate; a motion was made to strike out "40" and to insert "35." That motion brought that specific point before the Senate for its decision. Those who wanted 15 per cent could argue to the Senate and say, "Let us vote down the 35 per cent rate so that we may offer an amendment providing for a 15 per cent." If they succeeded in convincing the majority that the rate ought not to be 35 per cent, they could then offer their amendment proposing to fix the rate at 15 per cent. While we were discussing the amendment proposing to fix the rate at 35 per cent, they could have argued that, instead of an ad valorem rate of 35 per cent, there should be a specific rate of 1½ cents a pound. They had the right to argue that and to present that as one of the reasons why 35 per cent should not be adopted as the rate. In this case they did that; at least, some Senators argued the point, and there was put directly to the Senate the question, Shall we adopt 35 per cent ad valorem rather than the other rate?

Mr. UNDERWOOD. Will the Senator allow me to interrupt him for just a moment?

Mr. McCUMBER. I yield.

Mr. UNDERWOOD. I will not take much of the time of the Senator. The Senator says that we have a right to a vote, but that is not what I am contending for. Of course we have a right to a vote; nobody can change that; the right, according to the Senator's contention, is to vote on our adversary's amendment—in this case the Republican amendment—but we have got more than that. We are entitled to a vote on our proposal as to what is right as well as on the Republican proposal; and that is what this ruling will cut us off from. It cuts us off from presenting our proposal and having a vote on it. That is what I contend for. Under any parliamentary law, unless under an automatic gag rule such as is sometimes adopted in the House of Representatives by special rule from the Rules Committee, the minority has the right to present its viewpoint and to have a vote on it. This ruling, however, would cut that off.

Mr. McCUMBER. I should like to have the Senator from Alabama present to me a single instance in the whole history of the Senate where the Senate has ever taken that view. The correct view is that we must some time settle a question. If when the Senate has settled that a rate shall be 35 per cent some Senator may move that it be 15 per cent, and after the proposition to make it 15 per cent has been carried the matter is still not conclusive, but some other Senator may then move to make the rate 15.01 per cent, and the vote on that is not conclusive, we may vote on 10,000 different motions, and none of them will be conclusive.

Mr. President, that is not correct parliamentary law. The Senate has a right to vote down a proposed amendment, and then any Senator has a right to propose another; but the right does not exist first to vote in an amendment as a body and then attempt to vote it out again, and to do that as many times as any Senator desires to raise the question. In this case Senators on the other side of the Chamber had their day in court; they will have it twice in this case, because in the Senate they will have the right to another vote. If the committee amendment is not right and it is believed that the rate should be 1¼ cents per pound, Senators may still vote on it again when the bill reaches the Senate from the Committee of the Whole.

Mr. UNDERWOOD. The Senator from North Dakota has stated that he would like to know where I find any precedent for saying that the minority have a right to present their viewpoint.

Mr. McCUMBER. Oh, they have that right, of course.

Mr. UNDERWOOD. I know of no precedent in the Senate heretofore where it has ever been contended that the minority did not have the right to present their viewpoint and to take a vote on it.

Mr. McCUMBER. That is not the question. The question is whether or not the Senator can find a precedent to the effect that where we have adopted a specific amendment, then we can immediately knock that out and put something else in its place.

Mr. UNDERWOOD. Does not the Senator from North Dakota recognize the difference between a specific rate and an ad valorem rate? The pending motion is to strike out an ad valorem rate and to insert a specific rate.

Mr. McCUMBER. But the question the Senate voted on was to insert a 35 per cent ad valorem rate. That is not a specific rate.

Mr. UNDERWOOD. Then the Senator admits what I contended a while ago, that if the ruling is correct, and if a paragraph has been amended and the amendment has been agreed to, when we go into the Senate and the time comes to offer amendments we can not do it. We are permitted——

Mr. McCUMBER. Oh, yes; you can, or you can vote down our amendments. Of course, if you can not vote down our amendments, you are not entitled to have a different amendment adopted.

Mr. UNDERWOOD. Of course, then you apply the gag rule. The minority has no rights that it can exercise when it has got to outvote the majority, because it has not got a majority.

Mr. McCUMBER. The Senator from Alabama might as well say that a majority vote is a gag rule, because it settles the question; but that is not gag rule.

Mr. UNDERWOOD. Not at all.

Mr. McCUMBER. It is majority rule.

Mr. UNDERWOOD. I contend that in this body the minority has a right to present its position to the country and to have a vote on it. But if this ruling is correct, as enlarged by what the Senator from North Dakota has just admitted, then, in the case of graphite, for instance, because an amendment has been adopted, when we get through the committee amendments and have an opportunity to offer amendments ourselves we are precluded because the Senate by a majority vote has already acted on it. There is nothing of that kind in the rule. Of course, the majority can always adopt its proposition; a majority can always do that; and the rules are no defense of or protection to the minority whatever.

Mr. McCUMBER. Of course, we can not change the 10 per cent that has been put in unless when the bill gets into the Senate the amendment is disagreed to, but when the amendment is disagreed to any other amendment may be offered.

Mr. PITTMAN. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Nevada is recognized.

Mr. PITTMAN. Mr. President, I think the whole difference arises over the question as to what we are considering. We are considering House bill 7456, and the Senate has adopted no amendment to House bill 7456. That is all there is to it. If by a vote the Senate had adopted the amendment under consideration, then the ruling that is urged by the Senators on the other side would be good. If we should adopt the pending

amendment, which is the committee amendment, as amended, after that we could not change it in the Committee of the Whole, but we are not in that position. I think all of the citations have been based upon the supposition that the Senate has amended the bill under consideration. The Senate has not amended the bill under consideration; that is the very question before the Senate now: Shall we amend House bill 7456? Senators on the other side insist the Senate has already acted, whereas it has not acted. A majority of this body may vote not to amend the House provision. There is nothing at all so far acted upon by the Senate, they have merely expressed themselves as preferring 35 per cent to 40 per cent; that is all. There has not been an amendment to the bill under consideration with reference to this particular item.

Just before this whole parliamentary situation arose the Chair stated, "The question is now upon the committee amendment as amended." The question at that time was whether we would amend the House bill which was before us for consideration; but the Senate has never had a chance to vote on that question, and never has voted on it.

The vote on the amendment of the Senator from Utah was not a vote on an amendment to the bill under consideration; it was simply an expression of preference on the part of the Senate that they would rather have a rate of 35 per cent than a rate of 40 per cent as an amendment to the House bill; but it has not been acted on. The Senate has merely expressed its preference for 35 per cent over 40 per cent. I offered an amendment testing the sentiment of the Senate to see whether it would not rather have a rate of 1 cent per 10,000 pounds than 35 per cent ad valorem.

However, the Senator from Alabama covered every question I desire to cover in connection with this matter. I simply did not desire the argument of the Senator from Massachusetts to go without a word from me. I do not think there is any question that if House bill 7466 had been amended by the vote of the Senate we could not change the amendment in Committee of the Whole, because it would be the action on the bill under consideration whenever it reached that point, but it has not reached that point, and that is the difference that I think exists now between the proponents of the two constructions of the parliamentary rules.

Mr. SIMMONS. Mr. President, may I interrupt the Senator?

Mr. PITTMAN. Certainly.

Mr. SIMMONS. Mr. President, it seems to me that about all we have done by the vote we have taken is to permit the committee which brought in the bill to modify their amendment. Ordinarily, the mover of an amendment has a right to modify it at any time before a vote is taken upon the amendment. The committee brought in an amendment providing for a rate of 40 per cent, but the committee before action by the Senate asked the Senate for permission to change that amendment from 40 per cent to 35 per cent.

Mr. LODGE. Mr. President——

Mr. SIMMONS. Just a moment, please. Ordinarily that is done by unanimous consent; but we seem to have done it in this case by a vote. The amendment which is now pending is the committee amendment, which, with the consent of the Senate, has been changed from 40 per cent to 35 per cent.

I am not discussing the parliamentary situation, because I do not profess to be a parliamentarian. I am simply looking at it from the standpoint of ordinary logic and what seems to me to be common sense. We are in this situation: If this practice is to prevail here the committee in charge of this bill, with 2,000 amendments pending, can practically cut off all opportunity on the part of any Senator on either side of the Chamber to offer and secure a vote upon any amendment whatever. They can come in each morning and as an item is reached they can move to amend by slight increase or a slight reduction in the rate, and then an amendment to that would be held to be an amendment in the third degree and therefore incompetent. The result would be that no Senator would have an opportunity to offer an amendment at all.

I think that would be a very unfortunate situation, especially in connection with a bill carrying 2,000 amendments; and yet that would necessarily follow if every time the committee wants to change an amendment proposed by it we must take a vote, and when we take a vote as between the original proposition of the committee and the substitute proposition of the committee we can take no other vote. Therefore we are confined absolutely to select one or the other of the rates proposed by the committee. I do not see any justice or common sense in that proposition.

Mr. PITTMAN. Mr. President, the Senate has under consideration House bill 7456. It is a tariff bill; it came over to the Senate; it has been reported to the Senate, and the committee reporting it here has recommended certain amendments. The amendment under consideration is one of them, but it has not yet been adopted by the Senate. Whenever it is adopted by the Senate, the parliamentary rules read by the Senator from Massachusetts apply, but not until then. At the present time the Senate has done nothing except to consider what amendments it will accept in lieu of certain provisions of House bill 7456; that question we have not decided as yet; the Senate has only decided that it prefers, in this instance, a 35 per cent ad valorem rate to a 40 per cent ad valorem rate. I have asked the Senate by my amendment if they would not prefer to have a specific duty to an ad valorem duty. If they should adopt the amendment that I have offered, it would not yet be an amendment to the bill; it would only be a proposal to the bill. The vote of the Senate adopting the amendment of the Senator from Utah, making it 35 per cent instead of 40 per cent, does not affect H. R. 7456, the bill we have under consideration. It has not been adopted as a part of the bill. It was only adopted as a suggestion to be offered as an amendment, but the Senate has not yet voted on it.

I have offered another suggestion to the Senate to see whether they would not prefer a specific duty of so much a pound to an ad valorem duty of 35 per cent. We certainly should have a right to decide that question before the amendment is offered as an amendment to the bill under consideration, because undoubtedly after we adopt the amendment to the bill under consideration that ends it. That is the very reason why we should have the right, and that is the very reason of the rule that an amendment may be amended before it is offered to a bill. If that is not done, we get into this parliamentary inconsistency that everyone admits.

There was no intention on the part of the framers of the rules governing legislative bodies that any such absurd proposition should arise. Of course, the Senator from Massachusetts [Mr. LODGE] is absolutely right when he states that the Senate once having adopted an amendment to a bill, the vote on that question should end; but he knows that we have not adopted any amendment to the bill. We are only acting on what amendment we will adopt to the bill. It has been said that the Senate has acted on the amendment of the Senator from Utah, reducing the rate from 40 to 35 per cent. It has not. There never was a 40 per cent ad valorem rate in the bill, and it is not there now. It was 20 per cent ad valorem, and it is unchanged in the bill that we have under consideration. The committee proposed to raise it to 40 per cent. The Senate proposed, by adopting the Smoot amendment, to raise it to 35 per cent, and the Senate has not acted on either one of them, and to-day the rate stands in the House bill which we are now considering as 20 per cent. Meanwhile, before we have acted upon the House bill, I propose to the Senate to substitute, instead of 35 per cent ad valorem, a specific duty of 1 cent for every 10,000 pounds. The Senate has had no opportunity to vote on that subject. It is an entirely different question from any that it has had under consideration, and yet it is claimed that under the rules we can not bring that to the consideration of the Senate, that we can not reduce the 35 per cent, and that the Senate must now stop thinking. That is the whole situation.

No such thing was ever anticipated in the rule. Not only that, but the very rule which the Senator from Kansas [Mr. CURTIS] cited—he did not cite it all—goes on and says, further:

> After A is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending A, provided the coherence to be struck out be so substantial as to make this effectively a different proposition.

The Senator from Kansas did not read that, of course.

Mr. McCUMBER. The Senator from Kansas admits that. We all admit it. The Senator can reach just what he wants by first sustaining the Chair, and then he can add, after the "ad valorem," if he wants to, "not exceeding 1 cent per 10,000 pounds."

Mr. PITTMAN. Oh, but this rule says that you may strike out certain parts of it, comprehending the A that you put in, the 35 per cent.

Mr. McCUMBER. It does not say that you can strike out A, though.

Mr. PITTMAN. I will read it again to the Senator.

> After A is inserted, however, it may be moved to strike out a portion of the original paragraph, comprehending A, provided the coherence to be struck out to be so substantial as to make this effectively a different proposition.

Mr. McCUMBER. Yes; but it does not say that you can strike out A.

Mr. UNDERWOOD. It says "comprehending A."

Mr. McCUMBER. The whole paragraph that comprehends A, but not the amendment itself.

Mr. PITTMAN. Apparently, without a vote on this matter, we are to be bound not to consider further whether the duty shall be ad valorem or specific, just because the Senate has recommended by a vote that "35" be offered as an amendment to the House bill instead of "40." That is where we stand. The Senator from Massachusetts was entirely right Saturday, when he said that we were not dealing with an amendment to the bill under consideration, but we were considering solely what we should offer as an amendment to the bill. That is the whole problem.

It is said that it is an endless proposition. What has that to do with it? We have endless debate in this body, too—unlimited debate. We have never tried to limit debate here so far. I do not know whether we will or not. In the House, except for the rule providing for calling for the previous question, Members could go on offering amendments without limt. There is no doubt of that.

Mr. LODGE. If the amendment is rejected, that can be done.

Mr. PITTMAN. Here, however, we have a rule which says that an amendment in the third degree can not be offered. That means this:

The Senate committee offers an amendment to the House bill to raise the rate from 20 per cent to 40 per cent. The Senator from Utah offers an amendment to the amendment of the committee making it "35" instead of "40." Under ordinary circumstances, the minority would have the right to offer 15 per cent in lieu of the 35 per cent offered by the Senator from Utah; but we are debarred from doing that under the rule that it is in the third degree, and we can not go that far. We are debarred from getting any remedy in that way; and having debarred us from getting the remedy in that way, you say that having voted on the second amendment, which is better than the first amendment, we are forever stopped from going any further.

That might be true if the second vote were on an amendment to the bill, but it is not on an amendment to the bill. The very question that is pending now before the Senate, outside of this parliamentary question, is whether or not we shall adopt the Smoot amendment as a substitute for the House provision. If we do adopt the Smoot amendment as a substitute for the House provision, then the parliamentary rule that the Senator from Massachusetts raised applies. The only difference between us is that the parliamentary rule applies to an amendment to the question under consideration, which is a bill originating either here or in the other House. It does not apply to the perfection of an amendment offered to the bill.

The VICE PRESIDENT. The question is, Shall the decision of the Chair stand as the judgment of the Senate? On this question the yeas and nays have been ordered. The Secretary will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. FRELINGHUYSEN (when his name was called). I transfer my general pair with the Senator from Montana [Mr. WALSH] to the Senator from Oklahoma [Mr. HARRELD], and will vote. I vote "yea."

Mr. JONES of New Mexico (when his name was called). I transfer my general pair with the Senator from Maine [Mr. FERNALD] to the Senator from Missouri [Mr. REED], and ask that this transfer may stand for the day. I vote "nay."

Mr. McCUMBER (when his name was called). I transfer my pair with the junior Senator from Utah [Mr. KING] to the junior Senator from Maryland [Mr. WELLER], and will let this announcement of transfer stand for the day. I vote "yea."

Mr. CURTIS (when Mr. NORRIS's name was called). I have been requested to announce the absence on official business of the Senator from Nebraska [Mr. NORRIS].

Mr. SUTHERLAND (when his name was called). I transfer my general pair with the senior Senator from Arkansas [Mr. ROBINSON] to the junior Senator from Oregon [Mr. STANFIELD], and will vote. I vote "yea."

Mr. WARREN (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. In his absence I transfer that pair to the senior Senator from Pennsylvania [Mr. CROW] and ask that that transfer may stand for the day. I vote "yea."

Mr. WATSON of Georgia (when his name was called). I transfer my general pair with the Senator from Arizona [Mr. CAMERON] to the Senator from Texas [Mr. CULBERSON], and will vote. I vote "nay."

Mr. WILLIAMS (when his name was called). I transfer my pair with the Senator from Indiana [Mr. WATSON] to the Senator from Nebraska [Mr. HITCHCOCK], and will vote. I vote "nay."

The roll call was concluded.

Mr. CURTIS. I desire to announce the following pairs:

The Senator from New York [Mr. CALDER] with the Senator from Alabama [Mr. HEFLIN];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The junior Senator from Ohio [Mr. WILLIS] with the senior Senator from Ohio [Mr. POMERENE].

Mr. HALE. I transfer my pair with the senior Senator from Tennessee [Mr. SHIELDS] to the junior Senator from Delaware [Mr. DU PONT] and vote "yea."

Mr. ERNST. I transfer my general pair with the senior Senator from Kentucky [Mr. STANLEY] to the senior Senator from New Hampshire [Mr. MOSES] and vote "yea."

The roll call resulted—yeas 37, nays 22, as follows:

YEAS—37.

Ball	Gooding	McLean	Poindexter
Broussard	Hale	McNary	Rawson
Bursum	Johnson	Nelson	Smoot
Capper	Jones, Wash.	Newberry	Spencer
Curtis	Keyes	Nicholson	Sterling
Dillingham	Ladd	Norbeck	Sutherland
Elkins	Lodge	Oddie	Warren
Ernst	McCormick	Page	
France	McCumber	Pepper	
Frelinghuysen	McKinley	Phipps	

NAYS—22.

Ashurst	Harris	Pittman	Underwood
Brandegee	Harrison	Ransdell	Walsh, Mass.
Caraway	Jones, N. Mex.	Sheppard	Watson, Ga.
Fletcher	Kendrick	Simmons	Williams
Gerry	La Follette	Smith	
Glass	Myers	Swanson	

NOT VOTING—37.

Borah	Fernald	Norris	Townsend
Calder	Harreld	Overman	Trammell
Cameron	Heflin	Owen	Wadsworth
Colt	Hitchcock	Pomerene	Walsh, Mont.
Crow	Kellogg	Reed	Watson, Ind.
Culberson	King	Robinson	Weller
Cummins	Lenroot	Shields	Williams
Dial	McKellar	Shortridge	
du Pont	Moses	Stanfield	
Edge	New	Stanley	

The VICE PRESIDENT. On this vote the yeas are 37 and the nays are 22. So the decision of the Chair stands as the judgment of the Senate.

APPOINTMENTS BY EXECUTIVE ORDER.

Mr. HARRISON. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. HARRISON. On March 16 I offered a resolution in the Senate calling on the President of the United States "to furnish to the Senate the name of every person appointed by Executive order since March 4, 1921, whose appointment is by such order excepted from the civil-service rules, and to furnish to the Senate the reasons therefor."

There was discussion upon the resolution on several occasions, and on the legislative day of April 20, the calendar day of April 24, the resolution unanimously passed the Senate, calling on the President for that information.

I thought at that time that a great many of these appointments had been made by Executive order, in post offices and various other places, but I assumed that 10 days would be a reasonable time in which to make a response to the resolution. Notice was served on the President, I take it, some five weeks ago to get the information. There has been no answer up to this good hour. So my parliamentary inquiry is, How long must the Senate wait to get that information?

Of course, if there are so many of those appointments by Executive order that it would take six months to get the information, that may be a reasonable excuse for making the Senate wait, but I submit that five weeks after the request was made for that information the President should send it to us. I know that a great many important problems are at his desk to be solved. I know that there are many engagements which are pressing upon him which he must fulfill, social, political, and otherwise. I know that at times he must necessarily glide down the waters upon the *Mayflower* to keep up his associations with his friends. But this is a matter of importance. The country is interested in knowing how many Executive orders have been promulgated by the President, how many persons have been appointed in this country since the 4th of March through Executive order, and five weeks' time is enough, it seems to me, in which to formulate the data and send it to the Senate. So my parliamentary inquiry is, If the Vice President does not think it is long enough?

THE TARIFF.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7456) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the committee amendment as amended.

Mr. SIMMONS. The vote we are about to take is upon the adoption of the rates proposed by the committee as amended.

The VICE PRESIDENT. It is. The Secretary will state the amendment as amended.

The ASSISTANT SECRETARY. The question now is upon striking out "30" and inserting "35" on page 60, line 16, so as to read:

Wire rope and wire strand, 35 per cent ad valorem.

Mr. SIMMONS. I understand that under the ruling of the Chair it is not permissible for me to move to substitute 20 per cent for 35 per cent.

The VICE PRESIDENT. That is the decision the Senate has just made.

Mr. SIMMONS. Then I ask for the yeas and nays on agreeing to the amendment of the committee as amended.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. ERNST (when his name was called). Making the same announcement as before, I vote "yea."

Mr. FRELINGHUYSEN (when his name was called). Making the same announcement as before, I vote "yea."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "yea."

Mr. WARREN (when his name was called). Making the same announcement as to my pair and its transfer as on the previous vote, I vote "yea."

Mr. WATSON of Georgia (when his name was called). Making the same announcement as before, I vote "nay."

Mr. WILLIAMS (when his name was called). Repeating the announcement of my pair and its transfer as on the last roll call, I vote "nay."

The roll call was concluded.

Mr. CURTIS. I desire to announce the following pairs:

The Senator from New York [Mr. CALDER] with the Senator from Alabama [Mr. HEFLIN];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The junior Senator from Ohio [Mr. WILLIS] with the senior Senator from Ohio [Mr. POMERENE].

Mr. SUTHERLAND. Making the same announcement as before with reference to my pair and its transfer, I vote "yea."

The result was announced—yeas 37, nays 24, as follows:

YEAS—37.

Ball	Johnson	McNary	Ransdell
Brandegee	Jones, Wash.	Nelson	Rawson
Bursum	Kellogg	Newberry	Smoot
Curtis	Kendrick	Nicholson	Spencer
Elkins	Keyes	Norbeck	Sterling
Ernst	Ladd	Oddie	Sutherland
France	Lodge	Page	Warren
Frelinghuysen	McCumber	Pepper	
Gooding	McKinley	Phipps	
Hale	McLean	Poindexter	

NAYS—24.

Ashurst	Fletcher	La Follette	Smith
Borah	Gerry	Myers	Swanson
Broussard	Glass	Norris	Underwood
Capper	Harris	Pittman	Walsh, Mass.
Caraway	Harrison	Sheppard	Watson, Ga.
Dial	Jones, N. Mex.	Simmons	Williams

NOT VOTING—35.

Calder	Fernald	New	Stanley
Cameron	Harreld	Overman	Townsend
Colt	Heflin	Owen	Trammell
Crow	Hitchcock	Pomerene	Wadsworth
Culberson	King	Reed	Walsh, Mont.
Cummins	Lenroot	Robinson	Watson, Ind.
Dillingham	McCormick	Shields	Weller
du Pont	McKellar	Shortridge	Willis
Edge	Moses	Stanfield	

So the amendment of the committee as amended was agreed to.

MEDICAL REPORTS IN THE CASE OF CHARLES W. MORSE.

Mr. LODGE. I ask unanimous consent to have printed in the RECORD, in 8-point type, an official statement issued by the Department of Justice May 27, as published in the newspapers of Sunday, May 28, giving a summary of certain medical reports in the case of Mr. Charles W. Morse.

There being no objection, the statement was ordered to be printed in the RECORD in 8-point type, as follows:

[An official statement issued by the Department of Justice on Saturday, May 27, as published in the newspapers of Sunday, May 28, giving a résumé of certain medical reports in the case of Mr. Charles W. Morse.]

The record in the case of the commutation of the sentence of Charles W. Morse as disclosed in the official files, indicates beyond any question that Mr. Morse was released from confinement in the Federal penitentiary at Atlanta, Ga., upon reports of reputable physicians and United States Army surgeons showing him to be suffering from a serious illness. The release came as the culmination of, probably the most remarkable public demonstrations on behalf of any Federal prisoner ever convicted in the courts of the United States. Thousands of people had petitioned the Government for the pardon of Mr. Morse before action was finally taken resulting in his release on January 18, 1912, upon the medical reports of his physical condition.

Among the thousands who signed the petitions for the release of Mr. Morse were men of national reputation, many of them occupying positions of responsibility and trust under the Government itself. Despite the high character of those who thus disclosed their sympathy for Mr. Morse, it was not in response to any public demonstration, strong as that was at the time, that Mr. Morse was released, but solely upon the reports of the medical examiners. Chief among these were the distinguished officers of the Medical Corps of the United States Army, comprising an Army medical board, who found that Mr. Morse was suffering from chronic valvular disease of the heart, chronic nephritis, commonly known as Bright's disease, and slight arteriosclerosis. The officers constituting this board were Col. H. P. Birmingham, president; Maj. P. C. Fauntleroy; and Maj. F. F. Russell, recorder. This board, under date of December 30, 1911, expressed the opinion that while Mr. Morse was not in any immediate danger of death, the complication of diseases from which he was suffering was incurable and that on account of the psychic element in his case an improvement under existing conditions could not be hoped for.

So much misinformation has recently been made public with respect to the Morse case that it will be perhaps of some public interest to have at this time a brief résumé of the various proceedings in this case as disclosed in the official files. A report of James A. Finch, who at that time was, and who still is, pardon attorney of the Department of Justice, made to the Attorney General on February 20, 1911, states:

An overwhelming number of petitions and papers have been filed in this case.

Probably 20 per cent of the petitions, the report shows, asked for an investigation of the case, and if the man had not had full justice that a pardon be issued. Mr. Finch's letter states it is claimed that the petitions in Mr. Morse's case were signed by 70,000 persons, among them 429 State senators; 823 governors, mayors, and public officials; 1,675 judges and lawyers; 1,361 bankers; 865 newspaper men; 876 clergymen and physicians; and a large number of manufacturers, merchants, and business men. The petitions on file are voluminous.

Among the petitioners appearing in the lists of the official files of the pardon attorney are to be found the names of some of the most distinguished men in the country, evidence at this late date of the unusual and widespread interest then taken in Mr. Morse by people in all walks of life. Among the names listed are those of Senator Eugene Hale, of Maine; Senator Stephen B. Elkins, of West Virginia; Senator John H. Bankhead, of Alabama; Senator William O. Bradley, of Kentucky; Senator Thomas H. Carter, of Montana; Senator George E. Chamberlain, of Oregon; Senator Moses E. Clapp, of Minnesota; Senator Alexander S. Clay, of Georgia; Senator W. Murray Crane, of Massachusetts; Senator Chauncey M. Depew, of New York; Senator Charles Dick, of Ohio; Senator Duncan U. Fletcher, of Florida; Senator Frank P. Flint, of California; Senator Wiliam P. Frye, of Maine; Senator Jacob H. Gallinger, of New Hampshire; Senator H. D. Money, of Mississippi; Senator Henry B. Burnham, of New Hampshire; Senator Lee S. Overman, of North Carolina; Senator Robert L. Owen, of Oklahoma; Senator Nathan B. Scott, of West Virginia; Senator William J. Stone, of Missouri; Senator Robert L. Taylor, of Tennessee; Senator Charles A. Towne, of Minnesota, and others.

The names of a great many of the most prominent Members of the House of Representatives at that time appear as petitioners in behalf of Mr. Morse in the official files of the pardon attorney, of whom it is necessary and possible to mention only a few, including such distinguished men as John A. M. Adair, of Indiana; Joshua W. Alexander, of Missouri, afterwards a

member of the Cabinet in the administration of President Wilson; Andrew J. Barchfeld, of Pennsylvania; Richard Bartholdt, of Missouri; Charles L. Bartlett, of Georgia; Robert L. Broussard, of Louisiana; Walter P. Brownlow, of Tennessee; Edwin C. Burleigh, of Maine; Joseph W. Byrns, of Tennessee; William J. Cary, of Wisconsin; Frank Clark, of Florida; Henry D. Clayton, of Alabama; Ralph D. Cole, of Ohio; Michael F. Conry, of New York; Harry M. Coudrey, of Missouri; Charles H. Cowles, of North Carolina; Charles A. Crow, of Missouri; William A. Cullop, of Indiana; S. H. Dent, jr., and Richmond P. Hobson, of Alabama; Martin Dies, of Texas; Albert Estopinal, of Louisiana; Oscar W. Gillespie, of Texas; Carter Glass, of Virginia; Henry M. Goldfogle, of New York; George W. Gordon, of Tennessee; Thomas W. Hardwick, of Georgia; Robert L. Henry, of Texas; William Hughes, of New Jersey; Cordell Hull, of Tennessee; Ollie M. James, of Kentucky; J. Warren Keifer, of Ohio; Daniel F. Lafean, of Pennsylvania; John Lamb, of Virginia; James T. Lloyd, of Missouri; Harry L. Maynard, of Virginia; D. H. Mays, of Florida; Joseph F. O'Connell, of Massachusetts; George A. Pearre, of Maryland; John C. Floyd, Ben Cravens, and Joseph T. Robinson, of Arkansas; William W. Rucker, of Missouri; Swagar Sherley, of Kentucky; James L. Slayden, William R. Smith, and John H. Stephens, of Texas; Stephen M. Sparkman, of Florida; William Sulzer, of New York; J. Thomas Heflin, of Alabama; James M. Cox, of Ohio, and many others.

The records in this case show that despite the widespread public sympathy with Mr. Morse and the extraordinary number of petitions signed in his behalf, the action of the President was based entirely and solely upon reports of the Department of Justice and medical authorities who were called in to examine Mr. Morse.

Briefly, these examinations were made by civilian physicians and by officers constituting a special board of the medical department of the United States Army. Under date of November 1, 1911, Dr. E. C. Davis, of Atlanta, Ga., made a report to Hon. W. H. Johnson, United States marshal at Atlanta, based on an examination of Mr. Morse which he had made at Mr. Johnson's request. Doctor Davis reported symptoms indicating changes, probably indicating a beginning of Bright's disease, and said as to Mr. Morse:

I do not believe, in his present condition, with the influence of mental worry added to his physical ailments, that he would ordinarily live more than one or two years unless treated with extreme care and thoroughly protected from arduous work and exposure.

His diet ought also to be looked after carefully on account of evidences that were found of the beginning of Bright's disease.

Under the same date a report was made to Mr. Johnson by Dr. W. S. Elkin, of Atlanta, the concluding paragraph of which was as follows:

I do not believe that Mr. Morse is suffering from any serious organic trouble, nor is his health being materially affected by his present confinement. The nervous strain that he has been under for the past three years would easily account for his loss in weight. I do not think that further confinement will materially shorten the prisoner's life or permanently or seriously impair his health.

During November, 1911, constant reports were made to the Attorney General by J. Calvin Weaver, physician at the Atlanta Penitentiary under the last administration, on Mr. Morse's condition.

The Department of Justice was kept constantly advised of the condition of Mr. Morse by William H. Moyer, warden of the Atlanta Penitentiary, to whom reports were made by Maj. David Baker, post surgeon at Fort McPherson, Ga., where Morse was removed for treatment on November 26, 1911. Mr. Moyer on December 23, 1911, reported to the Attorney General, from Atlanta, by telegraph, as follows:

At 11.45 this morning Major Baker, post surgeon at Fort McPherson, telephoned the following report to me: "After four weeks' observation I believe that the physical condition (Morse's) is deteriorating. I regard his condition as very grave. I believe that further imprisonment will be injurious."

On December 28 1911, Warden Moyer was informed of the action of President Taft declining to exercise Executive clemency in the case. On the day following Mr. Moyer reported to the Attorney General by telegraph as follows:

Major Baker, surgeon of the post at Fort McPherson, reports over the telephone, at 10.47 a. m. to-day, as follows regarding the physical condition of Charles W. Morse, register No. 2814: "C. W. Morse is weaker, with more blood in his urine this morning than lately."

Under date of December 30, 1911, Major Baker reported as follows, in writing to the commanding officer at Fort McPherson, on the physical condition of the prisoner:

FORT MCPHERSON, GA., *December 30, 1911.*

REPORT OF THE PHYSICAL CONDITION OF FEDERAL PRISONER CHARLES W. MORSE.

He was admitted to this hospital the 26th of last month.

He has been examined daily since that date by the undersigned.

Diagnosis: Arteriosclerosis, with—

(a) Myocarditis, chronic ("mitral insufficiency, relative," used in my report of the 16th instant, expresses, in other words, my opinions).

(b) Renal sclerosis.

The last two are but phases in the progress of the first affection, noted when the heart and kidneys have become seriously involved.

(a) Myocarditis, chronic, is an affection of the heart muscle in which actively contracting muscle fibers are replaced by inert fibrous tissue. The progress is one of steady deterioration to a point where the heart is no longer able to empty itself, when it fails, either suddenly, with little or no premonition, or gradually, with accompanying dropsy. My statement of a relative mitral insufficiency in my report of the 16th instant was founded on the assumption of myocarditis, chronic, and was based on the physical signs which were then, as now, present, namely, a soft blowing murmur at apex of the heart, which is displaced to the left nipple line, and accentuated aortic second sound and dilatation, with loss of heart force. Myocarditis, chronic, is characterized by a higher percentage of sudden deaths than is any other chronic ailment. The general appearance of the patient is not indicative of the stage of the disease.

(b) The affection of the kidneys is a sclerosis, or contraction of the kidneys, choking out the normal tissues and replacing them with fibrous tissue which can not excrete urine. This is one of the forms of Bright's disease. It is a constant danger to the patient, as in this disease not enough urinary solids are excreted and thus eliminated from the system. In this case about two-thirds only of the normal amount has been excreted daily for a period of several weeks. This keeps the patient in danger of sudden or gradual development of uremia, which carries an enormous death rate. These dangers—sudden heart failure, from myocarditis, and uremia, from failure of the kidneys to eliminate—are constant in this case and can not, with due regard for the medical authorities, be minimized. The urine of this patient is not only decreased but it daily contains blood, and usually casts and albumen.

Other dangers of arteriosclerosis are the apoplexies, particularly the cerebral form.

Present condition: The patient is extremely weak, sitting up in bed only when propped for a short time—has not exceeded one and one-half hours at one time—when he complains of vertigo and faintness. His heart has lost force and its action is irregular. His circulation is poor. His kidneys do not eliminate sufficiently.

Prognosis: This malady is incurable. It is spoken of in the singular for the reason that his affections constitute one affection—arteriosclerosis—with special involvement of the heart and kidneys. In my opinion, he has not very long to live. This is rather indefinite, I realize, but forecasts of death in chronic disease are, at best, only approximations. That death comes on very suddenly in a large per cent of this disease is of itself enough to stamp it as one of the very gravest chronic affections known. As a life-insurance risk I would not recommend this patient for the short period of 30 days. His sudden death is constantly probable.

Effect of further imprisonment: All authorities are one in agreement that mental strain and worry aggravate this disease. For that reason, supporting my knowledge of the case, I unhesitatingly state that further imprisonment will be injurious if not speedily fatal. I have set forth my views of this case at some length for the reason that my previous reports may not have been full enough, though I thought them clear.

DAVID BAKER,
Major, Medical Corps, United States Army.

Under date of December 30, 1911, Surg. Gen. George H. Torney, of the United States Army, submitted to The Adjutant General of the Army the report of the board of medical officers which was sent to Fort McPherson, Ga., to investigate the physical condition of Charles W. Morse. This report is more than four typewritten pages in length, and comprises a complete diagnosis of the condition of Mr. Morse. The report sets forth that the urine had shown blood in diminishing quantities since admission and always more or less albumen, the amount at that time being not much more than a trace; that at Fort McPherson the prisoner had never been unconscious, although it had been reported by the prison authorities that he was, following the appearance of blood in the urine while in the prison. The report then concludes:

"From careful consideration of the history and the examination made the board is of the opinion that Charles W. Morse is suffering with chronic valvular disease of the heart, chronic nephritis—commonly known as Bright's disease—and slight arteriosclerosis. He has recently had a severe acute conges-

tion of the kidney, due probably to an infarct—the result, in all probability, of a cardiac embolus lodging in the kidney—during which he passed and still passes blood in his urine, although in diminishing quantities.

"The board is further of the opinion that, under the conditions surrounding him at present, there is not any immediate danger of death, but the complication of diseases from which he is suffering is incurable, and that on account of the profound psychic element in his case an improvement under existing conditions can not be hoped for.

"The most favorable place for treatment would be where he could have the full benefit of a well-equipped hydrotherapeutic establishment such as Hot Springs, Ark., and if he were in the military service the board would recommend that he be sent there.

"H. P. BIRMINGHAM,
"*President, Colonel, Medical Corps.*
"F. F. RUSSELL,
"*Recorder, Major, Medical Corps.*
"P. C. FAUNTLEROY,
"*Member, Major, Medical Corps.*"

In his letter transmitting this report, Surgeon General Torney said:

"The board returned from Fort McPherson yesterday and handed its report to me this morning. In view of the clear and nontechnical language in which this excellent report is written, no interpretation of it by this office seems to be necessary. It may be said, however, that it is the opinion of the board, in which I concur, that in view of the mental depression of the prisoner, all recuperative power being in abeyance, no improvement under existing circumstances can be hoped for; his death may be expected unless the depressing influence of confinement be removed."

ROCK RIVER BRIDGE.

Mr. JONES of Washington. I have two bridge bills to report from the Committee on Commerce for the Senator from New York [Mr. CALDER]. The Senator from Illinois [Mr. MCKINLEY] is very much interested in having the bills passed promptly, and I shall ask unanimous consent for their present consideration. They are just the ordinary bridge bills.

From the Committee on Commerce I report back favorably without amendment the bill (H. R. 11408) granting the consent of Congress to the county of Winnebago and the town of Rockton, in said county, in the State of Illinois, to construct, maintain, and operate a bridge and approaches thereto across the Rock River, in said town of Rockton. I ask that the bill be put upon its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, and it was read, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the county of Winnebago and the town of Rockton, in said county, in the State of Illinois, to construct, maintain, and operate a bridge and approaches thereto across the Rock River, at a point suitable to the interests of navigation, in said town of Rockton, county of Winnebago and State of Illinois, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FOX RIVER BRIDGE.

Mr. JONES of Washington. From the Committee on Commerce I report back favorably without amendment the bill (H. R. 11409) granting the consent of Congress to the city of Ottawa and the county of La Salle, in the State of Illinois, to construct, maintain, and operate a bridge and approaches thereto across the Fox River, and I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, and it was read, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the city of Ottawa and the county of La Salle, in the State of Illinois, their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Fox River at a point suitable to the interests of navigation at or near Main Street, in the said city of Ottawa, in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ATTORNEY GENERAL DAUGHERTY—THE MORSE CASE.

Mr. CARAWAY. Mr. President, it seems the Attorney General, Harry M. Daugherty, and Charles W. Morse have gone to sea. The papers so inform us. If it would not be offensive, I should like to know if they are going outside the 3-mile limit to settle their differences about whether Morse paid Daugherty his fee. The Attorney General went to sea with the President on Saturday, and Mr. Morse, with his son, according to the dispatch in the morning papers, either sailed Sunday or was to sail on that day. There may be, of course, nothing in the fact that they chose the same time to leave the country. So far as the American people are concerned, there is not much concern when they shall return.

But before the Attorney General gets entirely outside the sphere where we may communicate with him I want to call attention to one fact. In his letter of the 26th instant, written to the Senator from Indiana [Mr. WATSON], he uses this language:

I never received anything from Mr. Morse personally. All I ever received from anybody in connection with the Morse cases, both civil and criminal, was about $4,000 advanced to me by Mr. Felder, and was about half enough to pay my necessary expenses and disbursements connected with over a year's active investigation, preparation, and service in the cases.

It has been said, and I rather think it is true, that there is none so poor a witness as a lawyer. He usually mixes his facts. The Attorney General, Mr. Daugherty, made his contract with Mr. Morse for "services" to be rendered on the 4th day of August, 1911. Morse's sentence was commuted on the 18th day of January, 1912. Therefore, the entire period covered by the employment was five months and two weeks, and not "over a year," as stated by the Attorney General. Of course these are little inaccuracies, as was the Attorney General and the Senator from Indiana misunderstanding each other. The Attorney General wrote the Senator from Indiana [Mr. WATSON] and said: "You misunderstood me. I never said I did not have anything to do with the Morse case." And "you did not understand me to say I did not get anything for my services," although the Senator from Indiana was positive about both of those statements.

The Senator from Indiana has vindicated the good opinion I entertain of him, because he is quoted under a Rushville, Ind., headline of May 27 as saying this:

Attorney General Harry M. Daugherty and I understood each other perfectly.

That is, when the Attorney General states to the Senator from Indiana, "You did not understand me," the Senator from Indiana answers, "I understood you perfectly." That, if it means anything at all, means "you said just what I said you said." When the Attorney General and Mr. Morse went to sea to settle their differences, they ought to have included the Senator from Indiana, and let him have a chance likewise to adjust misunderstandings. I am pleased, however, to say that the Senator from Indiana has done what I thought he would do. He is standing up like a man and saying, "The Attorney General told me what I said the Attorney General had told me." That is, that the Attorney General said he had absolutely nothing to do with the Morse case and never received a penny in connection with it.

There is another feature of this particular case to which I want to call attention. Sunday there appeared in the papers a statement from the Department of Justice. Incidentally, I understand that a local paper has loaned the defendant a reporter to be its publicity agent during this controversy. I do not know who pays him. However, there appeared a statement disclosing a very large number of very reputable men and women who had signed the petition for Morse's release. Unfortunately for any effect that it may have been expected to have, Mr. Daugherty and former Attorney General Wickersham, as well as Charles W. Morse himself, the three men most interested in the transaction, are all on record as saying that the petition had absolutely nothing to do with the granting of the commutation of sentence.

I read from the letter of the Attorney General, Mr. Daugherty, appearing under date of May 26, in which he said this:

Morse was released upon the recommendation of Attorney General Wickersham, who based his recommendation upon the reports of eminent physicians of the Government, including the Surgeon General of the Army, and the records in the department show all the facts pertaining to the physical condition of Morse when he was released, which was the sole ground for Executive clemency.

Now, therefore, all of the names of the gentlemen who signed the petition of Morse under a representation that Morse was about to die, and all this great demonstration that the local

paper said was had in behalf of Morse, are shown by the letter of the person chiefly responsible for Morse's release, Mr. Daugherty, to have had nothing to do with his release because he said he was released solely on the showing made as to his health.

Under date of May 21 the press reported that—

Mr. Wickersham added that Mr. Morse was "perfectly truthful" in his statement published to-day, in which Morse said that the commutation of his sentence was due solely to President Taft and Mr. Wickersham, acting on the report of doctors who examined Mr. Morse.

Therefore, these petitions which Daugherty has thrown out as a buffer are shown by the statement of Attorney General Harry M. Daugherty and former Attorney General Wickersham to have had nothing to do with the commutation of sentence. On May 4 I received a telegram from Charles W. Morse—I shall not burden the Senate by reading it all again—in which he made this statement:

If the press has correctly quoted you, you have been misinformed regarding my physical condition at Atlanta at present time. The commutation accorded me was based wholly on my physical condition.

The three men who had most to do with this commutation—Harry M. Daugherty, who got the President to commute the sentence; Mr. Wickersham, the then Attorney General, who recommended it; and Charles W. Morse, who was the beneficiary—all had testified, unfortunately, before this buffer thrown out Sunday was published, and each one of them declares that the commutation was based solely upon a representation as to Morse's health.

Therefore, the publication of the alleged petition, according to the testimony of everybody who testified and everybody who knows about it, had nothing to do with the commutation of sentence. Why, then, was it published?

Mr. WATSON of Georgia. Mr. President, some complaint has been made by the Senator in charge of the tariff bill, because extraneous matters have been introduced into the debate. That has been done quite as often by Senators on the other side as by Senators on this side of the aisle. But it seems to me that the honor of the Government, the purity of the administration of justice, should be as important to Senators on both sides as any item of the tariff bill.

It would be a most unfortunate thing, if the American people lost confidence in the Department of Justice. It would be a most unfortunate thing if any Attorney General or any judge could be handed down to posterity branded as Alexander Pope branded Chancellor Bacon, "the wisest, brightest, and meanest of mankind." That country is on the brink of ruin and its system is about to fall in when its judges are corrupt, when its administration of justice is venal, when the rich man is all-powerful before the courts, and the poor man has no chance. It is not a pleasant thing, Mr. President, to contrast the treatment given to this rich criminal, Charles W. Morse, and that given to those poor creatures who are languishing in prison, after having served year after year, for having said something in criticism of the war policies of the former administration, and thereby having technically violated the espionage law. It is not alleged that they stole anything from anybody; it is not alleged that they caused a single man to refuse to enlist; it is not alleged that they really harmed the Government or contributed anything to the comfort of the enemy; yet, because they are poor and friendless, they languish year in and year out in the penitentiaries. When their little children come here and lift their tiny hands and try to reach the President with their plea of mercy they are coldly shut out; but when the wife of Charles W. Morse came here some years ago she was listened to by Senators, by Representatives, and by prominent men all over the country.

The Attorney General has made mistake after mistake in this case, but he has made no greater mistake than he made on Sunday when he sought to screen himself behind the names of those prominent men who, out of sympathy for Mrs. Morse and believing that her husband was in a dying condition, signed her petition for a pardon. What man can resist a woman in tears? What man wants to argue a case of that sort with a wife who is broken in grief and who is pleading with him with tears in her eyes to help her get out of prison the father of her sons?

The petition was numerously signed, by some of the best men in the country, but those men were deceived into believing that the man was in a dying condition. The very fact that 70,000 names were obtained shows the extent of the propaganda, and what it probably cost. Nobody will ever know, perhaps, how many thousands of dollars were spent by Morse in that campaign. He put his wife forward to plead for him, just as he now is putting forward the men who yielded to her entreaties and signed her petition.

However, Mr. President, it is a remarkable thing that these certificates which are published by the Attorney General are far from substantiating his case. The matter has assumed national importance. It may disrupt the Cabinet; it may overthrow an administration; it can not be longer ignored. Morse has again become a national issue, and that issue will not down until Daugherty gets out of the Cabinet. Here is one of these certificates:

"Dr. E. C. Davis, of Atlanta, Ga., made a report to W. H. Johnson, marshal at Atlanta, based on an examination of Mr. Morse. Doctor Davis reported symptoms indicating changes, probably indicating a beginning of Bright's disease, and said as to Mr. Morse:

"'I do not believe in his present condition, with the influence of mental worry added to his physical ailments, that he would ordinarily live more than one or two years unless treated with extreme care and thoroughly protected from arduous work and exposure.

"'His diet ought also to be looked after carefully on account of evidences that were found of the beginning of Bright's disease.'"

Everybody knows that by dieting and the drinking of mineral waters Bright's disease, in its incipiency, may be cleansed from the system in two weeks. It is only in the later stages when the complexion turns yellow and the whole body becomes debilitated, that the disease is practically incurable; but this doctor does not say Morse had the disease in that stage; and yet this is one of the certificates.

Then this astonishing Attorney General, this so-called lawyer, who is not much more of a lawyer than is Felder—he seems to practice law in about the same way as Felder does; he lobbies with folks, he pulls invisible wires, he swims in "imperceptible water"—furnishes this statement:

"Under the same date a report was made to Mr. Johnson by Dr. W. S. Elkin, of Atlanta, the concluding paragraph of which was as follows:"

Now let us read this amazing testimonial:

"I do not believe that Mr. Morse is suffering from any serious organic trouble."

And this Attorney General, who evidently did not read what he himself was putting in the newspapers, sets that out as an excuse for that pardon. Is it not amazing? Not only does he not read law books nor decisions, but he does not even read his own testimony:

"I do not believe that Mr. Morse is suffering from any serious organic trouble, nor is his health being materially affected by his present confinement."

Think of that being put into the newspapers on yesterday by Mr. Daugherty, who was off on the *Mayflower* at the time, presumably talking with the President as to whether to get down and out or not.

Now here is another one from Mr. Moyer, who was the keeper of the penitentiary at the time. On December 23, 1911, he telegraphed the Attorney General from Atlanta as follows:

"At 11.45 this morning Major Baker, post surgeon at Fort McPherson, telephoned the following report to me: 'After four weeks' observation I believe that the physical condition (Morse's) is deteriorating.'"

Well, most of us would deteriorate in prison; nearly everybody does. I have not the slightest doubt that those political prisoners to whom I have referred are not now so robust as they were when they went in. One of them served four years for repeating a speech that I made. I made it in open court. It was read to the Supreme Court here in Washington. I was too ill at the time to come myself, and my associate counsel read it. Because this political prisoner circulated that speech, which was made by me in open court at Mount Airy before Judge Emory Speer, of the Federal district court, David T. Blodgett, of Des Moines, Iowa, served for more than four years in the Atlanta Penitentiary. I got him pardoned out just before Christmas last, but the business of that department is so badly conducted that the pardon papers went to Fort Leavenworth, and to my astonishment I found that he was still in the penitentiary about the middle of January.

Here is a report from Major Baker:

"FORT MCPHERSON, GA., *December 30, 1911.*

"Report of the physical condition of Federal prisoner Charles W. Morse: He was admitted to this hospital the 26th of last month. He has been examined daily since that date by the undersigned. Diagnosis: Arteriosclerosis, with (a) myocarditis, chronic ('mitral insufficiency relative,' used in my report of the 16th instant, expresses, in other words, my opinions); (b) renal sclerosis.

"The last two are but phases in the progress of the first affection, noted when the heart and kidneys have become seriously involved.

* * * * * * *

"Other dangers of arteriosclerosis are the apoplexies, particularly the cerebral form.

"Present condition: The patient is extremely weak, sitting up in bed, only when propped, for a short time—has not exceeded one and one-half hours at one time—when he complains of vertigo and faintness. His heart has lost force and its action is irregular. His circulation is poor. His kidneys do not eliminate sufficiently.

"Prognosis: This malady is incurable; it is spoken of in the singular for the reason that his affections constitute one affection—arteriosclerosis—with special involvement of the heart and kidneys. In my opinion, he has not very long to live."

That was 11 years ago, Mr. President.

Mr. ASHURST. Outside of that, he was all right?

Mr. WATSON of Georgia. Yes; outside of that, he was a well man.

"Effect of further imprisonment: All authorities are one, in agreement that mental strain and worry aggravate this disease. For that reason, supporting my knowledge of the case, I unhesitatingly state that further imprisonment will be injurious."

Then, the most delicious thing is the report of the Surgeon General of the Medical Corps. Under date of December 30, 1911, Surg. Gen. George H. Torney, of the United States Army, submitted to The Adjutant General of the Army the report of the board of medical officers.

"In his letter transmitting this report Surgeon General Torney said:

"The board returned from Fort McPherson yesterday and handed its report to me this morning. In view of the clear and nontechnical language in which this excellent report is written no interpretation of it by this office seems to be necessary."

Yet the nontechnical language is partly this:

"From careful consideration of the history and the examination made the board is of the opinion that Charles W. Morse is suffering with chronic valvular disease of the heart, chronic nephritis (commonly known as Bright's disease) and slight arteriosclerosis. He has recently had a severe acute congestion of the kidney, due probably to an infarct (the result in all probability of a cardiac embolus lodging in the kidney) during which he passed and still passes blood in his urine although in diminishing quantities."

Mr. President, I now read from the New York Tribune of Saturday last. The leading editorial headed:

"Daugherty doesn't answer.

"A correspondent of the Tribune asks whether Attorney General Daugherty, in his defensive explanation of May 23 of his connection with the Morse pardon, answered or dodged the only questions involved in Senator CARAWAY's charges, to wit:

"No. 1. Did he accept employment to make a legal argument for the release of Morse or did he make such an argument? This would have been ethical even if his fee had been ten times $25,000.

"No. 2. Was he retained because of his personal intimacy with President Taft and did he capitalize his political influence to his pecuniary advantage? If so, is this not unworthy of a reputable member of the bar, besides being a fraud on his friend?

"No. 3. Did Mr. Daugherty, after discovering that Morse had malingered, expose the facts and make an honest effort to have the mistake rectified, or did he confine himself to endeavoring at private interviews to induce Morse to pay him the agreed-on sum?

"The Tribune has carefully examined Mr. Daugherty's first statement. It is unable to discover refutation of the Caraway charges. He devotes himself mainly to the labor of trying to drag in extraneous issues. He thus must be enrolled among the dodgers.

"The Attorney General's letter to Senator WATSON"—

Of Indiana, of course—

"given out yesterday leaves matters much as they were before. He admits 'over a year's active investigation, preparation, and service in the cases,' but he ignores the matters on which the public wishes light.

"To date no sufficient reason is given why Mr. Daugherty should not write his resignation or why the President should not demand it if not voluntarily tendered. The letters written by Mr. Taft and Mr. Wickersham seem to have little bearing on the present controversy. Of course, these gentlemen were not aware of the conspiracy if they were its victims."

Mr. President, as every one knows, that is a Republican paper that was founded by Horace Greely, and it always has had great influence with the Republican Party. It has defended the administration in nearly everything defensible. It has fought the battles of the administration where any honorable person could fight. It now calls upon Mr. Daugherty to relieve the administration of embarrassment by tendering his resignation, and it says that he has made out no defense for himself. A severer arraignment was not made by the Senator from Arkansas [Mr. CARAWAY] or by anyone else.

I myself on last Friday called the Attorney General's attention to four specific cases in which it is insinuated that there was corrupt action, defeating justice, bringing the law into contempt, and showing that a rich man can not really be punished at this time, while this administration is in power:

"Add to what you have already said that the district attorney's office in New York recommended criminal prosecution and confiscation of cargo, yet Daugherty wired to release ship *J. M. Young* is a matter of record in the district attorney's office, and it might be a good idea to ask Major Clark, who is handling the case in the district attorney's office, for the facts in the congressional inquiry."

What congressional inquiry? I must not allude to the efforts that have been vainly made for an inquiry in the other House, but the inquiry here has been conducted in the open, where all could hear, where there was a free field for a fair fight, if one was wanted. This British ship, the *J. M. Young*, was loaded with liquor and came into the port of New York to violate the Federal law. The honest dry agents got hold of the facts, seized the whisky, libeled the ship, and arrested those in charge of her. They employed Felder, and he came here to Washington; he saw the Attorney General, and the Attorney General telegraphed to have those proceedings dismissed and the whisky restored to those from whom it had been taken. The facts warrant the question, "Are Felder and Daugherty farming on shares?"

Great public affairs like this can not be trifled with. The whole country is taking notice of it, and the whole country is contrasting the difference between the deal which the poor man gets in court for speaking a few indiscreet words and the deal which the rich man gets when he and his sons robbed the Government during all the months of the war.

How did Morse keep his sons out? Well, Felder may be in on that and Daugherty may be in on it.

"2. Wine seizure: The case referred to is the Continental Wine Co., of which Nathan Musher has been indicted only last Saturday in Philadelphia for conspiracy to violate the national prohibition act. Why did Mr. Daugherty cause the $200,000 worth of wine to be released?"

That is a fair question. What was the reason that prevailed with the Attorney General and had that $200,000 worth of wine restored after the dry agents had a complete case against those who were violating the Federal law? What were his reasons? The country is entitled to know, the press is entitled to know, the Senate is entitled to know, the House is entitled to know. Can it be passed by in silence when action of this kind is ordered from the Attorney General's office at the instigation of such a man as Felder, who is even now under indictment in South Carolina, so that he does not dare to go through that State when going north from Atlanta to Baltimore, for instance? I say the whole country wants to know why the Attorney General is so thick with a man like Felder that he will take his word and throw around violators of the law immunity when he ought to be prosecuting the violators of law.

"3. Director Harold H. Hart, Thomas Ready, and Michael Lynch in New York, in the Federal prohibition department there, were indicted last November for a conspiracy to violate the Volstead Act. They released illegally 2,000,000 gallons of liquor.

"When they were arraigned in court, Felder appeared for them. Since this time there has been nothing heard of the case and criminal prosecution has come to a stop."

Is it any wonder that the country laughs to scorn Daugherty's statement that he is going to prosecute those who defrauded the Government during the years of the war? Is it any wonder that his promises, made from week to week and month to month, are treated with derision and contempt? Is it any wonder that the whole country is seething with indignation about his conduct of the Department of Justice?

"4."—

And last—

"There seems to be a good bit of discussion about the George Myers pardon, multimillionaire of Ohio, who was sent to Atlanta for violation of the Mann Act."

My information is that the man in the case is 50 years old and is worth many millions of dollars; that the woman in the case was a girl 15 years old. Can any decent man think of an

act involving more moral turpitude than that? Why should that man have been pardoned? Did he have heart trouble and Bright's disease? Was confinement at Atlanta injurious to his health? If we turn out these rich criminals because they do not like to stay in and because their health declines, what is the use in prosecuting them at all? Just let them do as they please, run off with little 15-year-old girls and debauch them, fling defiance at the law, bring in British cargoes of whisky, and then employ Felder to have them released. But if you can find a poor little nigger bootlegger or a poor white bootlegger carrying a flask in his hip pocket, run him in for a year or two. They are doing it all over the country, picking up the little fellows and letting the big ones break through the net. It is bad enough to have them break through, but when the Attorney General helps them do this it becomes a national scandal.

Here is the Philadelphia Record of this morning, Mr. President. I do not know the politics of this paper. I know that it is one of high standing. Perhaps the Senator from Utah [Mr. SMOOT] can tell me the politics of the Philadelphia Record.

Mr. SMOOT. No; I can not tell the Senator. I think it is an independent paper, but that is a matter of impression and not of knowledge.

Mr. WATSON of Georgia. On the editorial page, in the first column, I find this paragraph:

"When a convict has neither money nor political influence he may have all the ills to which Morse laid claim, and a dozen more, and the probability of confinement putting a speedy end to his life will not shorten his term by one day. That is the plain, unvarnished truth, and all prison authorities know it. The real scandal in the Morse case is not the connection of the present Attorney General of the United States with the successful effort to hoodwink a President of the United States into releasing a man who was not as ill as represented, but the demonstration that a rich man behind the bars enjoys privileges and gains sympathy denied to a poor man under precisely the same circumstances. Every discrimination of justice between the rich and the poor is grist for the mill of the forces of discontent and lawlessness, and those who are responsible for such discriminations strike at the very foundations of our Government. The higher and more honorable their places the more serious is their offense in setting a dangerous example."

In the New York World of this morning, in the second column of the editorial page, I find this:

TO MR. DAUGHERTY'S RESCUE.

"If President Harding is led through personal loyalty to stand behind Mr. Daugherty, he may help his Attorney General to escape a congressional investigation. But by demonstrating again his trustfulness and good nature, he will in no way clear Mr. Daugherty of the charges directed against him in the House and Senate. He can not free Mr. Daugherty of reproach merely by revealing the purpose of the White House to befriend him for personal or political reasons.

"The Attorney General might have relieved the administration of embarrassment by offering to resign or demanding an investigation by Congress. He has done neither. The administration may imagine that in going to Mr. Daugherty's aid it will manage to brazen through the present unpleasantness. It can not be done. The Daugherty issue can not be suppressed.

"It is useless for the President to attempt to wipe out ugly facts merely by closing his eyes to them. It will not work with Congress or with the public. Whatever obligation the President may consider himself to be under to Mr. Daugherty, he is under an immensely higher obligation to the American people to see that the administration of justice shall deserve public respect and confidence. Mr. Daugherty's fitness to hold his high office has been challenged in Congress and a strong case has been made out against him. He has evaded answering his accusers. Is the administration so blind as not to see not only the political consequences of shielding the Attorney General against investigation but the immeasurable wrong it commits against the public in retaining at the head of the Department of Justice a man whose honor and probity are questioned?"

Mr. President, so long ago as May 12 of this year the Morning Telegraph, under the name of Mr. E. B. Smith, of its Washington bureau, carried an article headlined as follows:

"Daugherty to act in war-fraud charges."

The editorial specifically mentions J. L. Phillips, the Republican referee of Georgia, who has been charged on the floor of the House by Congressman WOODRUFF and by Congressman JOHNSON with having stolen $1,800,000 from the Government under a lumber contract after the armistice.

J. L. Phillips has not voted in Georgia in nine years. He owns no property in Georgia; he pays no taxes in Georgia; he was not a registered voter until January 28, 1921. He did not vote for Harding and Coolidge. He did not vote for anybody. He was here in Washington robbing the Government of $1,800,000, and now these two Republican Congressmen, WOODRUFF and JOHNSON, say that unless Mr. Daugherty prosecutes J. L. Phillips they will impeach Mr. Daugherty. They were not Democratic Congressmen who made those charges. They were good Republicans, who were serving under the flag during the war, while Phillips was here in Washington stealing the Government's lumber.

In this morning's issue of that great independent paper, the Baltimore Sun, on the editorial page, the second column, will be found an editorial headlined, "Cruel 'dog days' in Washington." It deals with the hot times Mr. Daugherty is having and those hotter which he is going to have. I ask unanimous consent that that may go into the RECORD in 8-point type as a part of my remarks, and that the extracts which I have read be likewise printed in 8-point type.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to was ordered to be printed in the RECORD in 8-point type, as follows:

CRUEL "DOG DAYS" IN WASHINGTON.

"It is going to be an extremely hard, torrid, and trying summer in Washington. Whether the political humidity is going to hang more heavily and discouragingly over the Capitol than over the White House remains to be determined. In Congress the veritable slavery of driving an unpopular and dynamite-laden tariff bill through to passage faces a lot of distracted, disgusted, highly worried legislators. There is also the soldier-bonus nightmare, which seems to have produced utter demoralization among the Senate leaders. As for the Lasker ship subsidy bill, which President Harding seems to want as soon as he can get it, there is no telling what a dragging and maddening debate it will produce, making Washington, at the peak of the 'dog days,' the scene of political chaos almost without precedent in recent history.

"As for the other end of Pennsylvania Avenue, it can not remain calm and cool in the face of current developments. The disclosures regarding Attorney General Daugherty are not mere headline material for an edition or two. They may well give the administration real anxiety and concern. When a conservative Republican newspaper like the New York Tribune calls upon the Attorney General to resign, when the demand is echoed by the New York Herald and other important Republican journals, it is high time for the President to appraise the damaging effect that the revelations have had upon the country and to ascertain whether the administration of the Department of Justice is in the hands of persons likely to command public confidence.

"Nor can the President view the disruption in the Treasury Department without wincing. The disgraceful efforts of Elmer Dover, Assistant Secretary of the Treasury, to turn the department over to spoilsmen have been checked by the courageous stand taken by Secretary Mellon and several of his subordinates. The fight, however, has not ended, but is only beginning, and there is no assurance that it will not yet result in the retirement of Mr. Mellon from the Cabinet, who may well decide, in view of the badgering and nagging he has received from pelf-hungry Senators and Representatives, that the political game is not worth the candle.

"In a few months the issue over the Fall policies in the Interior Department will come to a crisis. There is no longer any question as to what Secretary Fall intends to do with the public resources if he can. He persuaded Secretary of the Navy Denby to give him jurisdiction over the naval oil reserves, and a large portion of them are now under lease to private interests; he is striving with might and main to get a grip upon the Forest Bureau with its vast domain of timber in Alaska and elsewhere, with untold mineral wealth beneath it. It is little wonder that the Fall policies have become a storm center of politics. If Congress is asked to confirm a plan of reorganization involving the transfer of the Forest Bureau to the tender mercies of the Secretary of the Interior, one of the bitterest legislative fights of a decade is in prospect.

"Congress, however, carries the major burden. It has the ugliest kind of forebodings about the McCumber tariff bill, which in its heart it knows to be a political and economic blunder; but how can it retreat now? Sheer inertia is carrying the bill forward; there is no vitality in the leadership that is handling it. There is a panicky feeling among Republicans about many of its features, such as the duties on hides, wool, sugar, steel, and a host of manufactured articles. But there is no way of smashing the 'tariff bloc,' apparently, save by a revolu-

tionary expression of public opinion. So far as the soldier bonus is concerned, Senate vacillation and irresolution upon it have now been reduced to folly and absurdity. In desperation Senator McCUMBER wants to call in the Democrats of the Finance Committee and place the onus of a bonus decision upon them. Of course, they will refuse to fall into the trap. The Democrats of the committee were kept outside the door while the Finance Committee was planning and building its own cul-de-sac on the bonus question, and it is not their duty to act as a relief expedition now.

"With such a fearsome summer ahead, the administration is preparing to go before the country next November and ask for a vote of confidence in the wake of a record of negation, folly, and reactionary policies."

Mr. WATSON of Georgia. Again, in the North American, of Philadelphia, an independent paper, there is a double-column editorial on the same subject, the headline being, "Mr. Daugherty should resign." I ask unanimous consent that that also may be put in as a part of my remarks in 8-point type.

There being no objection, the matter referred to was ordered to be printed in the RECORD in 8-point type, as follows:

MR. DAUGHERTY SHOULD RESIGN.

"When Republicans accused A. Mitchell Palmer, Attorney General in the Wilson administration, of failure to prosecute war profiteers, Democratic spokesmen defended him with the retort that the attacks were inspired by partisan politics. Now that his successor, Attorney General Daugherty, after 14 months of inaction, is assailed with similar charges from the Democratic side, Republican spokesmen feel that they have disposed of the case by asserting that the complaints are made for partisan purposes.

"It may be assumed that in each case the accusers would have been much less agitated if the Attorney General they were criticizing had been of their own party. But that circumstance obviously provides no sound defense for official dereliction. Indeed, it is precisely the vigilance of partisanship that is commonly cited as one of the merits of party government; the argument is that under such a system strong adherents of a party are always ready to expose the misdoings of their opponents, and that thereby the public interest is safeguarded.

"For several weeks charges of a serious nature have been made in both branches of Congress, involving the professional career of Attorney General Daugherty and his administration of the Department of Justice. They have been reiterated and amplified, and in some instances have been fortified by documentary evidence, but he has offered no defense beyond the issuance of statements of evasive generalities. At the outset Senator WATSON of Indiana made a misguided attempt to refute the charge that Mr. Daugherty had participated in the notorious pardon case of Charles W. Morse. But on the following day Senator CARAWAY produced documentary proofs so unanswerable that WATSON was forced to admit that he had had merely the Attorney General's denial, which was shown to be baseless. Now, Mr. Daugherty denies that he made any denial. The whole matter is of such grave import that the facts disclosed by the records should be studied by the public.

"Morse, an audacious and unprincipled operator in high finance, was convicted several years ago and sentenced to the Federal penitentiary at Atlanta. After his family had vainly endeavored to obtain a pardon the case was taken up in 1911 by Thomas B. Felder, an adroit attorney, and he engaged Harry M. Daugherty as the most useful partner he could choose for the difficult enterprise. Daugherty was not, perhaps, the ablest lawyer in the United States, but he was an influential politician in the pivotal State of Ohio, and by his political activities had earned the gratitude of President Taft and Attorney General Wickersham.

"On August 4, 1911, Felder and Morse signed a contract at the penitentiary setting forth the terms of 'the employment of Hon. H. M. Daugherty and myself.' Morse agreed to pay Daugherty a $5,000 retaining fee and expenses, and in all matters to follow implicitly the advice of his counsel. 'We are to receive,' said the contract, 'in the event we secure an unconditional pardon or commutation for you, the sum of $25,000, which is to be in full compensation for services rendered in connection with your application for pardon.' Subsequently, it appears, he sought to stimulate their efforts by promising to pay many times that sum for his release. A letter written by Felder in 1917, reviewing the whole extraordinary transaction, was read last week in the Senate. Felder wrote:

"'His (Morse's) release was secured by and through the efforts of Hon. H. M. Daugherty and myself, and by no other individual, corporation, or group of individuals. We have richly earned all that Morse agreed to pay, viz, the expenses, the $25,000, the $100,000, or whatever is involved in his assurance, "I will make you both rich."'

"When Daugherty and Felder saw Morse at the penitentiary they told him President Taft had refused to pardon him, but might reconsider the case later. During the conversation, Felder's letter shows, they got a 'cue' in the prisoner's physical appearance, and obtained from a prison doctor a diagnosis of Bright's disease. Thus armed, they went to Washington and got assurances from Taft and Wickersham that if Morse was in danger of dying in confinement he would be released. The lawyers hastened back to Atlanta and had him examined by a board of physicians, who reported that his condition was not serious. But his invalidism evidently became more pronounced, for the indefatigable attorneys enlisted the services of another board of physicians, who reported him so ill that an order was obtained transferring him to a hospital outside the penitentiary. Felder's letter of 1917, in explaining why the lawyers hesitated to sue Morse for the unpaid fee, gives this explanation of the pathological mystery:

"'We were informed that the Department of Justice was in possession of evidence to show that after physicians were appointed to examine Morse, and before they appeared on the scene, soapsuds or chemicals or something would be taken by him to produce hemorrhage of the kidneys, and that as soon as the examination was over the patient would recuperate rapidly.'

"Even after all the details had been worked out and the necessary records made the pardon was delayed, and ultimately Daugherty and Felder sought the aid of John R. McLean, a newspaper publisher, 'a warm personal friend of Mr. Daugherty, also a friend of both President Taft and Attorney General Wickersham.' Mr. McLean sent a trusted agent to Mr. Wickersham, the two went forthwith to the White House, there was a long telephone conversation between President Taft and the publisher, and presently the messenger brought back the $25,000 pardon.

"Morse and his sons were profuse in their thanks to the attorneys, but eventually the pardoned financier sailed for Europe without paying the agreed fee, to say nothing of the promised $100,000. Upon his return they pressed him for a settlement, and finally got from him what Felder calls some 'soap-wrapper' securities in one of his flotations. Felder took his share, but Daugherty indignantly rejected the stocks, and in April, 1913, wrote Morse reminding him sharply that 'there was a balance due of $25,000 when you were commuted.' Felder in his letter very candidly told why he and Daugherty hesitated to sue their defaulting client:

"'I have always felt apprehensive that if we brought suit immediate steps would be taken by the Department of Justice to secure an annulment of the Executive order and the return of Morse to the penitentiary. I have not been unmindful of the damaging evidence secured by the department in its investigations to ascertain whether or not a fraud had been perpetrated; that we were not connected therewith, but that the disclosure and publicity would be embarrassing.'

"As a matter of fact, the Department of Justice moved more than once to reopen the case, but the attorneys took energetic measures to avert such action and always succeeded. They had a double reason for intervening—by protecting Morse's liberty their claim upon him was increased, and at the same time they prevented exposure of a transaction which Felder said had given them all the notoriety they could stand. On one occasion, at least, Daugherty went to Washington himself and presented to the Attorney General arguments against revoking the order of release.

"The Morse pardon had created a nation-wide scandal when it was announced, and the story was revived by Morse's spectacular operations after this release and by the deplorable appointment of Daugherty as Attorney General. A few months after taking office Daugherty initiated vigorous investigation and prosecution of Morse and his associates for alleged irregularities in contract operations with the United States Shipping Board. The Attorney General's activity in this matter, contrasted with the department's inaction concerning other cases involving frauds against the Government of scores of millions, caused Morse and his friends to charge that he was being persecuted by his former counsel, and it is probable that they furnished the deadly documentary evidence which has been read into the Senate records.

"The scandal has been widened by new revelations concerning the failure to prosecute the Bosch Magneto Co., a German-owned concern, which was sold to a client by former Attorney General Palmer under circumstances which led to demand for a congressional investigation. Felder, who was Daugherty's

partner in the $25,000 Morse pardon case, is attorney for the Bosch concern. Furthermore, the chief Government witness in the Bosch case was recently dismissed from the Department of Justice by Daugherty because he had given information to Members of Congress; and he declares that Felder, at Daugherty's suggestion, has since offered him a salaried position with the accused company.

"The disclosures have been a stunning blow to the Republicans, who had hoped that they had heard the last of the too-familiar story of Daugherty's connection with the Morse scandal. The Democrats are correspondingly elated, because they believe, with good reason, that the administration and the Republican Party can not escape besmirchment in the unsavory mess.

"President Harding himself is more than indirectly involved, because Daugherty was his personal appointment as Attorney General. The smooth Ohio lawyer-politician was the Harding political manager in 1920, and was credited with having maneuvered the nomination at Chicago. Mr. Harding knew exactly what kind of man he was putting at the head of the Department of Justice, and knew the sordid story of the Morse pardon. The announcement of the selection was a shock to the public, and was denounced by scores of newspapers which had supported the Harding candidacy. The North American merely expressed a widespread view when it declared the appointment 'reckless and wicked':

"Reckless because Mr. Daugherty's political repute is such that his official actions and motives will always challenge suspicion; wicked because it puts a premium upon the practice of unprincipled politics, and because it intrusts the enforcement of law to one whose associations have been largely with forces striving to circumvent law.

"For Daugherty President Harding is personally responsible; yet the party must bear its share of the burden, too, because the Republican Senators, though fully aware of the appointee's record, ratified the nomination.

"If the administration leaders and party managers in Washington imagine they can smother this scandal by obstructing the demand for a congressional investigation, made in resolutions offered many weeks ago, they are cherishing a dangerous delusion. It has features which easily may make it the most deadly case brought against a national administration in many years. The Ballinger episode, which led to the undoing of Taft and the overwhelming defeat of the Republican Party, affected only administrative policies; the Daugherty charges involve the Department of Justice, and the American people will not be tolerant of scandal in that department, the conduct of which touches the rights of every citizen and the execution of the laws of the land.

"If Attorney General Daugherty retains a shred of regard for the President and the administration, he will resign without delay an office which has been put under a cloud by his incumbency. But the responsibility goes higher. President Harding owes it to himself, to his administration, and to the country to force the severance of an association which is no longer defensible."

THE TARIFF.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7456) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes.

The next amendment of the Committee on Finance was, on page 60, line 17, to strike out "30" and insert in lieu thereof "40," so as to read:

Spinning and twisting ring travelers, 40 per cent ad valorem.

Mr. ROBINSON obtained the floor.

Mr. SMOOT. I desire at this time to give notice that I shall move to strike out "40" and insert "35."

Mr. ROBINSON. Mr. President, this paragraph has been discussed at great length. I do not intend to repeat the discussions which were had on the paragraph on Saturday, but the reduction which the Senator from Utah proposes to make in the rate as reported by the Committee on Finance, namely, from 40 per cent ad valorem to 35 per cent ad valorem, in my opinion is not adequate. There is very little information furnished the Senate respecting ring travelers. They are used, as everyone knows, in cotton spinning. The importations are not large, and the figures of the domestic production are not available.

I move to strike out "40," in line 18, and to insert in lieu thereof "20," so that it will read "20 per cent ad valorem." I am ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was rejected.

Mr. SMOOT. I move to strike out "40" and to insert in lieu thereof "35."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment of the committee was, on page 60, line 19, to strike out "30" and insert in lieu thereof "40," so as to read:

Wire heddles and healds, 25 cents per 1,000 and 40 per cent ad valorem.

Mr. SMOOT. I shall ask that that amendment be disagreed to.

Mr. ROBINSON. The Senator from Utah announces that he will ask that this amendment be disagreed to. That, of course, will improve it from my standpoint. However, I think the rate ought to be further reduced, and I move, in line 19, to strike out "30" and insert in lieu thereof "20," so that it will read "20 per cent ad valorem."

The amendment to the amendment was rejected.

Mr. SMOOT. I ask that the amendment be disagreed to.

The amendment was rejected.

Mr. SMOOT. The Senator from North Dakota [Mr. McCUMBER] gave notice that he would like to have taken up next the paragraphs in Schedule 1 which were passed over.

Mr. ROBINSON. Why not let us finish paragraph 318, unless there is some one not now present who wants to discuss it. The Senator will remember that that went over on Saturday.

Mr. SMOOT. Yes; there was a request that it should be passed over.

Mr. ROBINSON. Does the Senator remember who requested that it should go over?

Mr. SMOOT. I do not recall, but some Senator wanted it to go over.

Mr. ROBINSON. This paragraph went over on Saturday, and I would like to get action on it, if there is not some substantial reason for delay.

Mr. SMOOT. As I stated, the Senator from North Dakota gave notice that he would like to take up schedule 1 this morning and proceed with the paragraphs which have been passed over, in order to get action upon all the paragraphs in that schedule.

Mr. ROBINSON. Will the Senator be good enough to furnish us with a list of the paragraphs in schedule 1 which remain undisposed of?

Mr. SMOOT. I will give the Senator the numbers of the paragraphs.

Mr. ROBINSON. The clerk of the committee has just furnished me with a list.

Mr. SMOOT. Paragraph 7 was the first paragraph passed over, and I think the Senator from North Carolina [Mr. SIMMONS] had an understanding with the Senator from North Dakota [Mr. McCUMBER] that it should go over until we reached paragraph 1635. I understand that the junior Senator from Utah [Mr. KING] is not prepared to go on with paragraphs 25 and 26, paragraph 25 being the paragraph dealing with dye intermediates, and paragraph 26 being the paragraph dealing with coal-tar products.

Mr. SIMMONS. The junior Senator from Utah informs me that he will be able to return to the Senate Chamber Wednesday morning.

Mr. SMOOT. Then it is the understanding that on Wednesday morning we will take up paragraphs 25 and 26.

Mr. SIMMONS. That is my understanding.

Mr. FRELINGHUYSEN. Mr. President, I understand the Senate is considering what paragraph it will take up next.

Mr. SMOOT. Yes; and the question we were discussing related to paragraphs 25 and 26.

Mr. FRELINGHUYSEN. I ask the Senator from North Carolina if he knows whether the junior Senator from Utah [Mr. KING] will be ready to take up those paragraphs on Wednesday morning.

Mr. SIMMONS. The junior Senator from Utah has been quite indisposed since he left the Senate over a week ago. I called him up this morning and he stated that he was under the impression that these paragraphs were to be taken up to-morrow; but we are not to have a session to-morrow, which I explained to him, and my understanding is that he expects to be here Wednesday morning.

Mr. FRELINGHUYSEN. When we passed over those paragraphs, at the request of the junior Senator from Utah, I think he asked for three days' extension. He undoubtedly was ill, and has been ill ever since, but I think the time has come when the Senate should dispose of these paragraphs. I shall ask the Senate on Wednesday, if it is agreeable to the Senator,

to take them up definitely, and have it understood that we will debate them definitely at that time.

Mr. SIMMONS. I think there will be absolutely no trouble about it. The junior Senator from Utah says he is sure that he will be able to come here on Wednesday. But the Senator from New Jersey has had some courtesies when he wanted to be away, and I rather think that he ought not to be impatient.

Mr. FRELINGHUYSEN. Mr. President, I am not impatient, but the Senator knows that the committee is very anxious to have these paragraphs disposed of.

Mr. SIMMONS. I am very anxious, too. I have stated what the Senator from Utah told me, and I rely upon it.

Mr. SMOOT. I only ask that the Senate proceed to the consideration of paragraph 33a, the item of cyanide.

Mr. SIMMONS. I notice that there are very few Senators on either side of the Chamber. I know there are a number of Senators interested in this paragraph, but I do not know where they are, and I make the point of no quorum.

Mr. SMOOT. The Senator has no objection to our proceeding to the consideration of the paragraph?

Mr. SIMMONS. No; not at all; but I make the point of no quorum, so that Senators may come in.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	McCormick	Rawson
Ball	France	McCumber	Robinson
Borah	Frelinghuysen	McKinley	Sheppard
Brandegee	Hale	McLean	Simmons
Broussard	Harris	Myers	Smoot
Bursum	Harrison	Nelson	Spencer
Capper	Johnson	Newberry	Sterling
Culberson	Jones, N. Mex.	Nicholson	Sutherland
Cummins	Jones, Wash.	Norris	Swanson
Curtis	Kendrick	Oddie	Underwood
Dial	Keyes	Page	Walsh, Mass.
Dillingham	Ladd	Pepper	Watson, Ga.
Elkins	La Follette	Pittman	
Ernst	Lodge	Poindexter	

Mr. SIMMONS. I wish to announce the unavoidable absence from the city of my colleague [Mr. OVERMAN].

The PRESIDING OFFICER. Fifty-four Senators having answered to their names, there is a quorum present. The Secretary will state the pending amendment.

The READING CLERK. On page 18, after line 2, the committee report to insert a new paragraph, as follows:

PAR. 33a. Cyanide: Potassium cyanide, sodium cyanide, all cyanide salts and cyanide mixtures, combinations, and compounds containing cyanide, not specially provided for, 10 per cent ad valorem.

Mr. ODDIE. Mr. President, I move to amend, on page 18, by striking out paragraph 33a and inserting at the proper place in schedule 15 of the bill the following:

Cyanide: Potassium cyanide, sodium cyanide, all cyanide salts and cyanide mixtures, combinations, and compounds containing cyanide.

This is the same amendment I offered on the floor of the Senate on April 18.

On May 5 I made some extended remarks in the Senate on this question. I requested that the product be placed on the free list. I explained that a duty on cyanide violates the principles of protection in that it deals a blow to the gold-mining industry, which to-day can not stand any additional operating costs. I have carefully followed the debates in the Senate. My friend the Senator from New Jersey [Mr. FRELINGHUYSEN] has made a very earnest plea for a duty on cyanide, but I think that when he has studied the question carefully he will find that the gold-mining industry is entitled to free cyanide. I shall not go into the matter in detail again, as I have already covered it at length on May 5; but I hope the Senate will adopt the amendment which I have proposed, putting this product on the free list.

Mr. FRELINGHUYSEN. Mr. President, I oppose the amendment offered by the junior Senator from Nevada to the amendment of the committee, because I believe, for several reasons, that we should protect the industry. I shall speak only very briefly.

A great deal has been said in the Senate upon this question. The senior Senator from Nevada [Mr. PITTMAN], in the course of his speech, said:

This concern is one of the great and powerful corporations in the State of New Jersey. There is not any doubt that it has been a very generous and patriotic contributor to the Republican Party in New Jersey. A Republican Senator will run for reelection in New Jersey in the approaching fall campaign, and, if reports may be believed, he will need help and will need it badly.

That was in a speech in which the senior Senator from Nevada refers to the Roessler & Hasslacher Co. I wish to state that, so far as I can secure any information, the Roessler & Hasslacher Co. have never made contributions to any campaign fund, and that my motive in asking for a duty on the product is not to secure any campaign contributions or help in the coming campaign. I will say further that, as far as my own expenses are concerned, I expect to take care of them, and I do not ask for the imposition of tariff duties for the purpose of securing campaign contributions.

Mr. President, in the course of this speech and in the course of other speeches reference was made to the fact that the Roessler & Hasslacher Chemical Co. were German owned and were not loyal during the war. I ask at this point to insert in the RECORD a telegram from the Perth Amboy Chamber of Commerce in which they resent the charges made and state that those who know the facts and the war record of the company and its employees know that it is a record to be proud of.

The VICE PRESIDENT. Without objection, it is so ordered.

The telegram referred to is as follows:

PERTH AMBOY, N. J., *May 15, 1922.*

Hon. JOSEPH S. FRELINGHUYSEN,
United States Senator, Washington, D. C.:

We resent charges made on floor of Senate against patriotism of the Roessler & Hasslacher Chemical Co. We who know the facts know that the war record of that company and its employees is one to be proud of. We continue to support their efforts to secure tariff protection for their manufactured article. The company is one of the largest taxpayers in the country. They paid their Perth Amboy employees during full-time operation in one year over $900,000. Help us to keep this industry going.

PERTH AMBOY CHAMBER OF COMMERCE,
ISAAC ALPERN, *President.*

Mr. FRELINGHUYSEN. I also ask to have printed in the RECORD a telegram from the State senator from that county, in which he speaks of the fact that the president of the company, an American citizen, resident of his own city, not only had his oldest son but his son-in-law serving in the war against Germany.

The VICE PRESIDENT. Without objection, the telegram will be printed in the RECORD.

The telegram is as follows:

PERTH AMBOY, N. J., *May 15, 1922.*

Hon. JOSEPH S. FRELINGHUYSEN,
United States Senate, Washington, D. C.:

I am advised that the Roessler & Hasslacher Chemical Co. has been attacked on the floor of the Senate by persons who assert that this company is controlled by Germans and have intimated that its officers were not patriotic during the war. Both charges are absolutely untrue. The story of German control is completely refuted by the statement of January 7, 1922, by Thomas W. Miller, Alien Property Custodian, which you have already seen regarding the loyalty of company's officers. I am well acquainted with its president. He is an American citizen and a resident of my own city. He has taken an active part in every patriotic movement here for over 30 years, including the war period. His oldest son served in our Army in France. His son-in-law made the supreme sacrifice at the close of the war. This company was officially decorated by the War Department for distinguished service rendered in the prosecution of the war.

MORGAN F. LARSON.

Mr. FRELINGHUYSEN. I also ask to have inserted in the RECORD a communication dated January 28, 1919, signed by Capt. E. P. Vergé, chief of the French Powder Mission, in which he takes advantage of the opportunity to express his sincere appreciation of the spirit of cooperation which the Roessler & Hasslacher Chemical Co. manifested, that company having conducted business relations with the French Powder Mission during the war.

The VICE PRESIDENT. Without objection, it is so ordered.

The communication is as follows:

REPUBLIQUE FRANÇAISE,
COMMISSARIAT GENERAL DES AFFAIRES DE GUERRE FRANCO-AMERICAINES,
New York, January 28, 1919.

To the ROESSLER & HASSLACHER CHEMICAL CO.,
100 William Street, New York.

GENTLEMEN: I beg to advise you that I expect to leave very shortly for France. During my absence the duties of the head of the French Powder Mission will be transferred to Lieut. L. A. Mulsant, who up to the present time has acted as my assistant.

I am taking this opportunity to express to you my sincere appreciation of the spirit of cooperation with which you have conducted business relations with the French Powder Mission during the war and with me personally while I managed it.

Faithfully yours,
E. P. VERGÉ,
Chief of French Powder Mission.

Mr. FRELINGHUYSEN. I also ask to have inserted in the RECORD a statement in the Chemical, Color, and Oil Record of May 15, 1922.

The VICE PRESIDENT. Without objection, it is so ordered.

The article referred to is as follows:

DOES THE SENATE MAJORITY KNOW WAR IS OVER?—PETTY PREJUDICIAL PARTISANSHIP SHOWN IN TREATMENT OF BIGGEST AMERICAN CYANIDE MAKER.

Political influences at Washington are apparently lined up against the largest producer of cyanides in this country, judging from the aftermath of reports that have reached the press. Such statements that the Roessler & Hasslacher Chemical Co. was taken over by the Alien Property Custodian and its affairs administered by the Government do not

represent the whole truth. Assertions that the concern paid 900 per cent dividends and profiteered on cyanide of soda are also without foundation. Cyanide of soda was not materially different from many other chemicals during the war. Manufacturers made one price and speculators another. Our records show no first-hand prices of cyanide of soda that were above 37 cents per pound, although second-hand pressure forced the market at intervals to the neighborhood of $2 per pound. It is difficult to comprehend how the largest producer had anything to do with the abnormal advance in quotations.

This concern quoted the Record during these pyrotechnics 35, 36, and 37 cents for contracts of cyanide of soda, and emphatically stated they were taking care of their customers to the best of their ability. These high prices naturally tempted importations, and the field once tapped has remained fertile among certain interests. There is no disputing the superiority of the R. & H. product over the imported. Scarcely a consumer will not admit this. The Record knows of instances where the consumer has purchased imported cyanide for trial and has been forced to discard it and has made urgent calls for American cyanide for replacement.

It emphasizes the weakness of this particular case when Congress starts to playing politics against an essential branch of the chemical industry and attempting to sway tariff opinion. The maintenance of cyanide production here means much to our newly born chemical industry. No less than 15,000,000 pounds of caustic soda and 6,000,000 to 7,000,000 pounds of ammonia are used in the manufacture of cyanide yearly. The old slogan about more business and less politics should have more consideration while this tariff jig is on at Washington.

Mr. FRELINGHUYSEN. Mr. President, prior to the enactment of the Underwood tariff law the duty upon cyanide of potassium was 12½ per cent. When that duty was taken off the manufacture of cyanide potassium in this country was stopped to a large extent. When the war broke out we were completely dependent upon this company for our supply of cyanide of potassium. I have in my possession letters, which I shall not introduce in the RECORD, from manufacturers all over the country who desire that we should have an independent supply of this product in the country, not only from the standpoint of its commercial uses but also from the standpoint of our being independent in the event of another war.

What would have become of the citrus industries of California if they were unable to procure sodium cyanide for the development of hydrocyanic acid gas for the period of four or five years? Have the people of California so soon forgotten the service rendered them by the Roessler & Hasslacher Chemical Co. and its subsidiaries when cyanide could not be purchased from any other source?

The manufacturers of arms, equipment, and ammunitions in the United States not only supplied our own Army but those of the Allies. Cyanide was necessary in every one of the industries engaged in the manufacture of such arms, equipment, and ammunition. The metal parts of every airplane built in this country was rust proofed with a solution of zinc cyanide. Zinc cyanide solution was the only solution found to be satisfactory in coating the "detonators" and "boosters" used in the shells manufactured in this country. The arms and equipment manufacturers required cyanide in the heat treating of their steel, and other manufacturers used it for electroplating. The manufacturers of automobiles and tractors used large quantities of cyanide in their manufacturing processes.

All of this cyanide was manufactured by the Roessler & Hasslacher Chemical Co. in the United States from American raw material and with only American labor.

Mr. President, not only does this concern the Roessler & Hasslacher Chemical Co. but it also concerns the manufacturers of caustic soda and other products running into millions of pounds. There is no danger of a monopoly, because the patents have expired and anyone can manufacture cyanide of potassium. The question is not one as to whether an industry in the State of New Jersey is to be protected, but it is a question as to whether we are to have an independent industry in this country using the raw materials which were manufactured so extensively throughout the war, and also, and paramount, whether we shall be independent of any foreign country in event of needing this product in war again. That is the question. Up to 1913 this commodity was protected, but when the high duty was taken off we shared the business with Germany.

The duty of 10 per cent is a moderate duty. It will not embargo Canada, but it will protect the industry against the competing country. If Senators believe in the protection of American industries, it is the duty of every Senator to vote for the imposition of this moderate duty.

Mr. PITTMAN obtained the floor.

Mr. STERLING. Mr. President——

Mr. PITTMAN. I will yield to the Senator from South Dakota if he desires. I have twice spoken on this subject, and if the Senator from South Dakota desires to speak on it now I yield the floor to him with pleasure. I only have a few words to say.

Mr. STERLING. Mr. President, I desire to speak very briefly upon this question. It is a question which affects very materially certain interests in my own State, and I am primarily led to speak on the question because of those interests.

I wish to say, Mr. President, that while I am a protectionist and a thorough believer in the principle of protection, as I think my votes on the various items of the pending tariff bill will show, it is because I believe in protection that I am in favor of the amendment proposed by the Senator from Nevada [Mr. ODDIE]. I think it may happen sometimes, in order that the full measure of protection may be afforded to certain industries in this country, that certain other articles should be on the free list. I regard cyanide as one of those articles. I think it is proper for us to consider the most important uses of cyanide in order to determine whether or not the putting of cyanide on the free list will in itself be a protection to certain other vital and important industries.

I have before me, Mr. President, the Summary of Tariff Information relative to the pending bill, and I am interested in learning what the Tariff Commission has to say in regard to the uses of cyanide of potassium and sodium cyanide. "Description and uses" is the title of the paragraph which is found on page 1416 of the summary, and which reads:

Description and uses: Potassium cyanide is a white crystalline solid, readily soluble in water, and extremely poisonous. Sodium cyanide, much cheaper and having a higher percentage of cyanide, has practically replaced potassium cyanide, which is made either by fusing potassium ferrocyanide with potassium carbonate and carbon or by fusing cyanamide with potassium chloride and carbon.

Now, as to its uses:

Its principal use is for the extraction of gold and silver from their ores; also for fumigation (notably that of citrus fruits), as a solvent for electroplating baths, and as a flux in assaying and metallurgy.

Mr. President, the Tariff Commission has in substance repeated this description of the uses of cyanide in two other pamphlets. Here is the special pamphlet entitled "Tariff Information Survey" on the articles in paragraph 64 of the tariff act of 1913, in which there is a brief reference to potassium cyanide at page 33, as follows:

Uses: Its principal use is for the extraction of gold and silver from their ores. Potassium cyanide is also used extensively for fumigating, especially in the culture of citrus fruits.

I turn to a more complete statement of the Tariff Commission's Surveys, and I find on page 47 of the pamphlet I now hold in my hand the following:

The two biggest uses for sodium cyanide are the "cyanide process" of extracting precious metals from their ores and fumigation.

Those are the two great uses of sodium cyanide. My position, Mr. President, is that by having cyanide on the free list we shall protect the great industries here mentioned which are the principal users of cyanide.

I think we all recognize something of the difficulties under which the gold-mining industry has labored from 1915 down to the present hour, and why it is that the gold production of this country has fallen off more than one-half. I do not think it should be the policy of Congress to put any additional burdens upon that industry, but that it should, indeed, instead of putting an additional burden, adopt a policy of relieving the industry from some of its present burdens. It is estimated that one mine in my State, the Homestake Mining Co., will, under this bill, have to pay $8,000 because of the proposed tariff duty of 10 per cent upon cyanide.

This industry, Mr. President, in the Black Hills section of South Dakota has heretofore produced nearly $7,500,000 of gold and silver—principally gold—each and every year for a long period of years, and which employed at one time, I think, prior to 1915, about 3,500 men; has employed during the last three or four years about 1,600 men. That is some indication of the decline of the gold industry the country over and the unemployment of labor arising therefrom, and that it is all due to the great cost of producing gold during the last five or six years.

Mr. President, the gold producer is not like any other producer; he is not like the manufacturer who can pass the tariff upon the raw material on to the consumer to whom he sells. The price of gold is fixed, and there is no chance to pass a tax or a tariff of any kind on to any consumer or to any user of gold.

What is always the vital and important consideration in fixing of a tariff designed to protect an industry? The one great consideration always emphasized, to which we always revert, is not how to protect those who own and operate the industry, but how shall we protect those who labor in the industry, and by our system of wages provide for that higher standard of living to which we think the American workingman is entitled. That is the great question. Take that into account, and then weigh the benefits, so far as labor is concerned, of a tariff upon cyanide and the benefits that will accrue from having cyanide on the free list. How many men are engaged in this one cyanide plant in the United States, that of Roessler & Hasslacher Co.

in New Jersey? It is reported, I think, that they number 250 men; at any rate, that statement appears in the hearings two or three times.

Mr. FRELINGHUYSEN rose.

Mr. STERLING. One moment, if the Senator will excuse me. I heard the Senator from New Jersey state in some remarks which he made some time ago that 500 men were employed by the Roessler & Hasslacher Co. I am willing to admit that 500 men may be employed by that company, but how many men are employed in the gold-producing industry as workmen in that industry throughout the United States? There are at least 20,000 men so employed, and here it is proposed to impose a tariff for the benefit of 500 laborers instead of putting the article on the free list, which will in turn benefit 20,000 men who are engaged in the gold-mining industry alone.

I have said that the next and second most important use to which cyanide is put is that of fumigation, especially in the citrus industry. This is shown by the report or survey of the Tariff Commission from which I have read.

Mr. FRELINGHUYSEN. Mr. President——

The VICE PRESIDENT. Does the Senator from South Dakota yield to the Senator from New Jersey?

Mr. STERLING. I yield.

Mr. FRELINGHUYSEN. Will the Senator from South Dakota state just how great a burden the proposed duty will impose upon the individual miner? Has he figured that out?

Mr. STERLING. No; I have not figured that out. Has the Senator from New Jersey figured out just how much the individual worker with the Hasslacher Co. will be benefited by the tariff of 10 per cent ad valorem?

Mr. FRELINGHUYSEN. Yes; I have. It means his continued employment.

Mr. STERLING. I will say that, while I am not able to state how much the individual gold miner may be benefited, Mr. President, yet I can say that I think in many mines the miner would be benefited to the extent that he would run the risk of having the industry in which employed closed down if the proposed rate on cyanide were imposed, because the industry would be unable to pay the tariff added to the other excessive costs involved in the production of gold. As I have stated, it would cause one mine in the State of South Dakota, the Homestake Mining Co., to pay at least $8,000 if the tariff of 10 per cent ad valorem is added to the cost of production. Only 2 out of 12 or 14 mines in the Black Hills region are now operating.

All the others are closed down because of the excessive cost of production. The great Homestake is barely able to run, and is running on short time and with a reduced force, and the Trojan is the only other mine in operation in the Black Hills country. We can not in these great, vital industries, which are indispensable to the welfare of the country and of the world, add further to the cost of their production.

As I was about to say, the next highest use to which sodium and potassium cyanide are in fumigation, "Notably," says the Tariff Commission, "of citrus fruits," and so forth.

Do we want to add an additional burden to the thousands upon thousands of citrus-fruit growers of this country, those in California and along the western coast and in Florida? I do not think so. Measured again by the same standard used in connection with the production, namely, the labor employed, how many laborers in the citrus-fruit industry will be affected by the proposed duty? Of course, it requires thousands of them properly to fumigate the citrus-fruit trees in the orchards and on the fruit farms of California and Florida. Do we want to unnecessarily add this burden to their costs and to the continual risks which the citrus-fruit growers are compelled to assume year after year? I think not.

Mr. President, when we come to consider the question upon the basis of labor—the number of men employed—I think the principle to be observed is "the greatest good to the greatest number"; and you surely will affect beneficially a greater number by far by putting this product on the free list than you will by imposing a tariff for the protection of this one industry in all the United States—the Roessler-Hasslacher Co.

The Senator from New Jersey [Mr. FRELINGHUYSEN] has alluded to the German antecedents of this company. He has denied, on behalf of the company and its ownership, any pro-German proclivities. I am not questioning his statement in that regard, Mr. President, but I do have reason to believe, from the evidence furnished the Committee on Finance, that in addition to its being the only producer in the United States of sodium cyanide and potassium cyanide, it has its intimate connection with the German and the English interests. I think the evidence fully shows that between the Roessler & Hasslacher Chemical Co., standing alone as the only manufacturer in this country and acting in conjunction with its English and German allies, controls, aside from what is done by the American Cyanamid Co. on the Canadian side of the St. Lawrence River, not only the cyanide production in this country but the importations from other countries as well.

We have letters here in the hearings before the committee showing that when inquiry was made of those engaged in the industry in Great Britain and in Germany, the inquirers were referred invariably to the Roessler & Hasslacher Chemical Co. in the United States for their information, as though the product could not be bought nor negotiations be carried on in regard to its purchase unless, indeed, they consulted the Roessler & Hasslacher Co. What does that argue? Nothing else—it is the inevitable conclusion—than that, first, the Roessler & Hasslacher Co. is a monopoly, existing by virtue of the fact, first, that it is the only company manufacturing in the United States, and, second, it determines what shall come to the United States from foreign countries.

So, Mr. President, here is a case where I think, protectionist as I am, that the principle of "the greatest good to the greatest number" ought to prevail. We should protect the 20,000 persons engaged in the gold-mining industry, and protect the many thousands who are engaged in the citrus-fruit industry in this country, as against not exceeding 500 in the cyanide industry. The one appropriate means of protection, so far as this bill is concerned, will come from putting cyanide on the free list. I hope the amendment of the Senator from Nevada will prevail.

Mr. FRELINGHUYSEN. Mr. President, I understand that, as has been stated, the mining companies of Nevada now have a 25-year contract with the Canadian company, the American Cyanamid Co.

I have before me a telegram referring to a speech made by General Fries, in which he said:

> I consider sodium cyanide of very great importance. It is used extensively during peace time for electroplating and heat-treating of steel, for the recovery of rare metals, and on a large scale for fumigating orchards, and incidentally for exterminating animal and insect life in granaries, on board ships, etc. A certain percentage of it is also used in the dye industry. In time of war it may be used to electroplate our shells and boosters with zinc. It is also the basis of our second most effective tear gas, brombenzylcyanide, and other gases, such as cyanogen bromide and cyanogen chloride and diphenylcyanarsine, which were actually used or closely studied in the World War.
>
> Have received over 500 letters from customers addressed to their respective Senators commending us for keeping prices of cyanide low during the war.

That is from P. Samuel Rigney, who was connected with the company.

I have no interest whatsoever in this company. I never heard of them prior to the hearings of this committee, but I do feel, in regard to this product, that we should at least protect it and allow its manufacture to continue.

The Senator from South Dakota [Mr. STERLING] spoke of 250 employees, but he forgot to mention the related industries that supply the materials for the 16,000,000 pounds of cyanide of potassium that are produced every year, which takes 15,000,000 pounds of caustic soda, 7,000,000 pounds of American-burned charcoal, and 6,000,000 pounds of ammonia. All of these are products that require extensive manufacturing processes, and undoubtedly they employ labor, and it affects them; but far above that is the consideration as to whether or not we are going to allow the manufacture of cyanide of potassium in this country to continue, and upon that ground I am urging this duty.

The Senator from South Dakota spoke of the great burden on the laboring man. The Homestake Mining Co. estimated that a duty of 33⅓ per cent would increase the cost of treating a ton of ore 1.6 per cent. This is a duty of 10 per cent ad valorem—one-half a cent per ton increase in cost.

Mr. STERLING. Mr. President, will the Senator permit me to interrupt him?

Mr. FRELINGHUYSEN. I will allow the interruption; yes.

Mr. STERLING. The testimony shows that the Homestake Mining Co. crushes 4,000 tons of ore a day, and that the rate provided for in the bill in the first place—33⅓ per cent—would add $25,000 per annum to their cost of production.

Mr. FRELINGHUYSEN. Let the Senator read the statement of the Homestake Mining Co. when their stock was selling at 200, 300, 400 per cent; let him look at the dividends of the Homestake Mining Co. during the time when the duty of 12½ per cent ad valorem was imposed, and then answer me whether there was any greater burden on the miners or the Homestake Mining Co. Look at the dividends in 1918 and 1919 of the Tonopah Co., when it is shown that they made 23 per cent, and tell me whether unjust and undue burdens are placed upon the miners of the country when we impose a duty of half a cent a ton for concentrating the ore.

Mr. ODDIE. Mr. President, I should like to answer the Senator from New Jersey [Mr. FRELINGHUYSEN] by stating that his figures in regard to the increase in the cost of producing gold are not clear. There may be some individual mines, such as those in the Black Hills, where a large proportion of the values are extracted by the amalgamation process and a small proportion by the cyanide process—in other words, without the values extracted from the tailings by the cyanide process many of these properties would be forced to shut down.

Mr. President, in my State of Nevada I will give some figures taken from the cost sheets of one of our mills, the Belmont mill, in 1916. The cyanide consumption was 3.52 pounds per ton, costing $0.601. That means that the cyanide cost was 28 per cent of the milling cost. All mill purchases were $1.318 per ton, including cyanide.

In another mill in my State, the Churchill mill, in 1916 the cyanide cost was $0.375 a ton. All supplies consumed in the mill cost $1.445, and the cost of cyanide was therefore 25 per cent of the cost of all supplies. The total labor cost was 85.7 cents, therefore the cost of cyanide was 43 per cent of the total labor cost.

Mr. President, as I have said, there may be some mines which can afford an increased cost of cyanide, but the great majority of the gold mines of this country can not afford it. The gold production of our country has been cut more than in half since 1915, as the Senator from South Dakota has stated. The industry is suffering, and we need more gold. We may have a surplus of gold in our Treasury to-day, but we must look at the matter from a world standpoint.

Mr. President, I want to say a word for the prospector and the humble miner. There are others besides the very rich mines. The mountains in our western country have the hard-working prospectors — undergoing great hardships — climbing over them day after day and month after month and year after year, and in most cases unsuccessful. Now and then they discover something of great value, and they have to go through hardships which the people in this eastern country can not comprehend. I speak from experience, because I have been through them. I know that the burden of largely increased cost of production that has been imposed on the gold-mining industry during the last five or six years is unbearable; and it means, furthermore, that the investment of millions and millions of dollars in that industry is to-day lost to the investors.

I ask for justice. I ask that this matter may be looked at in a fair manner, and that Senators present will see that my request and the request of others, that no duty be imposed upon cyanide, will enable a fundamental and necessary industry to live.

Mr. PITTMAN. Mr. President, I have already spoken on this subject. I simply want to state this: I may not understand what the protection policy of the Republican Party is. The Senator from South Dakota [Mr. STERLING] has stated that the protection policy is against protection on cyanide under the condition of the facts in this case. I do not believe that that has been denied yet by the Senator from New Jersey; but in spite of that fact he wants a duty on cyanide.

There are certain undisputed facts in this matter which we might just as well try to remember. One of them is that the United States Government contends that the Roessler & Hasslacher Chemical Co. is still owned by foreigners. The control of the stock is now in the possession of the Alien Property Custodian. There is not any doubt about that. It is also undisputed, mind, you, that the Roessler & Hasslacher Chemical Co. was organized by two men sent here by a German syndicate. There is no question about that. It is also undisputed that this concern, the Roessler & Hasslacher Chemical Co., has never had any opposition in the United States since it was first established here in 1885. That is the fact. This concern has not only always had and now has the exclusive manufacture of cyanide in this country, but it has the exclusive distribution of it. It is simply a part of the German concern. It manufactures at this end of the line when it pays to manufacture here, and it simply sells to us here the German stuff when it pays better to sell the German stuff. That is all there is to that.

Mr. STANLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. PITTMAN. I do.

Mr. STANLEY. Does this company operate by virtue of a patent?

Mr. PITTMAN. It does.

Mr. STANLEY. Is it a patented process?

Mr. PITTMAN. It is a patented process.

Mr. STANLEY. Is that a German patent taken out in this country?

Mr. PITTMAN. Taken out in this country; yes.

Mr. STANLEY. Then we have the case of an absolute monopoly, controlled by a patent German owned and in the hands of the Alien Property Custodian, producing the entire product, and given a bonus under this bill?

Mr. PITTMAN. Yes; that is it exactly.

Mr. FRELINGHUYSEN. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from New Jersey?

Mr. PITTMAN. I yield to the Senator.

Mr. FRELINGHUYSEN. The statement I have is that the stock is in the hands of the Alien Property Custodian, has been advertised for sale, and was purchased, and at the present time an investigation of that sale is going on, but that a large portion of the stock is owned by American citizens and is now in the control of American citizens; that there are no patents; that the patents have expired, and that anyone can make cyanide under the process which was formerly patented.

Mr. PITTMAN. Mr. President, of course just before we went into the war there was not any question about the German concern owning this plant, but there was a sudden sale of a few shares so as to give the German-American citizens apparent control. The validity of that sale was attacked and the Alien Property Custodian took possession of that transferred stock. Where it is now I do not know, but that is immaterial. The fact remains that when mine operators in this country or growers of fruit trees try to buy cyanide in Germany, as they have tried to do, they are referred back to the Roessler & Hasslacher Chemical Co. as the sole and exclusive agents for the sale of cyanide in the United States. That is the evidence here admitted by the witnesses who appeared on behalf of the Roessler & Hasslacher Chemical Co.

There is but one place you can buy this material in the United States, and that is from this concern. The Senator says anybody can use the patent. The Senator must know he is not advised rightly in that, when the United States Government, in seeking patents throughout the world to make this cyanide, had to seek other patents and used what they called the Buscher patent, and it proved an absolute failure.

Of course, there are a lot of these patents they started on which have expired by limitation entirely, but, as any attorney knows, there are constant additions and improvements made to patents which, in effect, extend their life, and to-day those parties are afforded protection.

The fact remains that this is a German concern, and no one in this country who has engaged in business with them doubts it. That is what I am getting at. When the Mine Operators' Association of the State of Nevada applied to the German concern direct for cyanide, what were they told? They were told, in the first place, that the British Government had an embargo and would not allow the shipment, and when this Government agreed that it could be shipped, then they found out that this German concern had turned it into gas to fight our soldiers with, and now, after the war is over and this same operating association undertakes to buy cyanide from Germany, what are they told? They are told, "You can not buy a pound of cyanide from us. You go to the Roessler & Hasslacher Co., who are our exclusive agents in the United States."

If you go into Great Britain, where they make sodium cyanide, and try to buy a pound, what will they tell you? They will say to you, "We are not selling sodium cyanide in the United States. We are selling it solely in South Africa. We have an agreement with the German concern to divide up the world. We have our agencies in South Africa. The German concern has its agencies in the United States and Mexico."

The situation is simply this: They have made enormous profits on this chemical, and no one has attempted to deny that they have made enormous profits. They made those enormous profits when getting a rate not so very much above the rate they are charging at the present time. There is but one thing to this. It is a monopoly in this country which desires to continue to have a monopoly, and for the first time since 1895 there is opposition threatened to it, which comes from an American concern that was compelled to go across the river at Niagara Falls because it could get power cheaper over there. That American concern compelled this very trust to come down from 24 cents to 20 cents a pound on cyanide less than three months ago, and they never would have come down except for that.

Give them this advantage over this American concern, give them a 10 per cent ad valorem advantage, and they will start in to kill that concern. That is what they desire to attempt.

This question now appears in a different form from what it did originally, and I am afraid some Senators will not understand the form in which it is presented now. The House put cyanide on the free list. After the most careful and complete investigation the House found that there was no justification for placing any duty on cyanide. That is the way the bill came to the Senate. The Senate Committee on Finance has offered an amendment to place a duty on cyanide of 10 per cent ad valorem. That is the way the matter has been pending here during all of the debate.

To-day my colleague from Nevada [Mr. ODDIE] has offered an amendment to strike out the proposed amendment of the Finance Committee and to place cyanide on the free list. The result would be exactly the same as if a vote were taken on a motion to disagree to the committee amendment. If you strike out the proposed amendment of the Senate committee placing cyanide upon the dutiable list, it naturally goes back to where it was in the bill as it passed the House on the free list. But the junior Senator from Nevada thinks, possibly, that it would not only be well to strike out the proposed amendment of the Finance Committee, but to affirmatively say that we place it on the free list. I have no objection to that form of expression, although it may mean the same thing as the other. At least, those who are urging this duty of 10 per cent think it is on the free list in the bill as it passed the House.

Those, therefore, who are in favor of having cyanide on the free list must vote yea in the form in which the question is now placed by the amendment of the junior Senator from Nevada, because his amendment is to strike out the proposed duty of the Committee on Finance and substitute a paragraph stating that it shall be placed upon the free list.

If that amendment is defeated, then it comes back to the committee amendment providing a duty of 10 per cent. I take it the vote on that will be no. However, it raises the same parliamentary question which came up the other day, as to whether you will not have voted on it twice.

Mr. STANLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. PITTMAN. I yield.

Mr. STANLEY. In the hearings before the Committee on Agriculture and Forestry touching the production of cyanogen, which is a product similar to this, made by the same process, I understand, it developed that the world's supply of this product was produced by a German monopoly, with subsidiary companies in the United States and Great Britain. From what the Senator from Nevada has said as to the replies from the English producers, that they did not sell in the United States, and referring them to the German company, it is perfectly manifest that this company, whatever its nominal ownership may be, is a subsidiary company of a parent organization in Germany. In that event, this duty would be a bonus in favor of a German producer, and against a concern owned by American citizens who were forced to go across the line at Niagara Falls because of the fact that they could not get power in this country.

Mr. PITTMAN. I may say that practically all of the raw material used by the Cyanamid Co. across on the Canadian side is purchased in the United States. Its capital is all American capital, and practically all they get on the other side is hydroelectric power, according to the testimony. The materials come from this side. Of course, as far as the nitrogen is concerned, that comes out of the air, but otherwise it is practically as I have stated.

I have nothing personally against Mr. Roessler or Mr. Hasslacher. I am not discussing whether they were patriotic or unpatriotic during the last war. I know nothing about it. I am only discussing the case from the evidence. The evidence discloses that this thing is a trust, has been a trust; that it is an absolute monopoly, always has been, and always will be, unless you can break it down through this American concern operating at Niagara Falls.

I never said anything harsh against this company, but the Senator from Utah did. The Senator from Utah stated they were robbers during the war. I never said that, because I am not dealing in such personalities. I did, however, read from the RECORD disclosing how much they made, what profits their companies made, and that has not been denied.

In some of their subsidiary companies they made as high as 800 per cent, and in one as high as 1,000 per cent. This poor, weak institution, which has had no opposition since it started here, in 1895, is here now crying for a bonus, and that bonus is to come out of the pockets of gold and silver producers in this country, and out of the pockets of the fruit growers of this country. It is to come out of the buyers of cheap automobiles, because they use cyanogen in case hardening cheap automobiles. It is to be given deliberately to this concern as a bonus.

They say that the only reason why they want this power is to be sure they will have that concern here always in case of another war. That is the idea—just so that we will have it here in case of another war. In the first place, we are not ever to have any more wars. We settled that at the recent conference in Washington. But if we should have another war, let us remember that the Cyanamid Co. is an American concern, at Niagara Falls, and that the Cyanamid Co. did its part during the last war just as strongly and as efficiently as did the Roessler & Hasslacher Chemical Co. But I take it, it will be a pretty expensive proposition if we are to pay these people a bonus right along for the sake of having them here when the next war takes place.

Mr. LODGE. Is the Senator referring to the company at Niagara Falls?

Mr. PITTMAN. That is the Cyanamid Co.

Mr. LODGE. I am not sure that I know the name.

Mr. PITTMAN. There are two—one on one side of the Falls and one on the other.

Mr. LODGE. Which of the companies is it of which one-third is owned by the Roessler & Hasslacher Co. and another third by the German concern—two German concerns owning two-thirds and the British the rest. Is that the one on the Canadian side?

Mr. PITTMAN. No; that is the one on the American side. That is the Niagara Electro Chemical Co., a subsidiary of the Roessler & Hasslacher Chemical Co. In the division of the cyanide trade of the world between the British and the Germans, the British not only took their part of the world and gave the Germans this part of the world but they went further and said that as far as the particular institution which was to manufacture cyanogen, which is made at Niagara Falls, on this side, was concerned, they demanded a third interest in it, and they got a third interest in it, with the result that a third interest in it is owned by the British concern, a third interest by the German concern, and a third interest by the Roessler & Hasslacher Chemical Co.

Mr. LODGE. That is the one on this side?

Mr. PITTMAN. It is the one on this side.

Mr. LODGE. Where is the Cyanamid Co.?

Mr. PITTMAN. That is right across the Falls, on the Canadian side.

Mr. LODGE. Is that an American company?

Mr. PITTMAN. Every man in it is an American. It is an American corporation, organized in Maine. It buys all its material in the United States.

Mr. LODGE. Supposing there is no protection, that it is all free, where would the competition which is to keep the price down come from?

Mr. PITTMAN. The competition would come from the Cyanamid Co., which is on the Canadian side of the Falls.

Mr. LODGE. Owned by Americans?

Mr. PITTMAN. Owned by Americans. That is where the competition would come in. It has already come in. It has come in to such an extent that when bids were put out by the Mine Operators' Association for cyanamid for the ensuing year the Roessler & Hasslacher Co. asked 24 cents a pound. Heretofore they could get whatever they wanted, because this is the first year that the Cyanamid Co. ever attempted to sell cyanide for mining. It came in and bid 20 cents a pound. It underbid them 4 cents a pound on cyanide. Now the Roessler & Hasslacher Chemical Co. are asking leave to meet that 20 cents a pound to-day in the field and are meeting it, but when they had a monopoly they were charging 4 cents a pound more. That is what we have been up against all the time.

Mr. LODGE. Then, as I understand the Senator's statement, the increase in this duty will benefit the German interests.

Mr. PITTMAN. Undoubtedly.

Mr. LODGE. The American interests are on the Canadian side so far as the stockholders are concerned.

Mr. PITTMAN. I do not know it to be true, but I think Mr. Roessler and Mr. Hasslacher are now naturalized citizens of the United States. They have always held a substantial interest in this company, coming here as agents of the German concern.

Mr. LODGE. They are agents of the great German concern, the name of which I have forgotten?

Mr. PITTMAN. Yes. I have the name of it.

Mr. LODGE. They are a branch of that great concern?

Mr. PITTMAN. Yes.

Mr. LODGE. They are its selling agents here?

Mr. PITTMAN. They have the exclusive selling agency of the United States.

Mr. SMITH. Mr. President, may I ask the Senator a question?

Mr. PITTMAN. Certainly.

Mr. SMITH. Is there any other plant on this continent which produces cyanide save the one just across the river in Canada?

Mr. PITTMAN. There is not another plant on this continent and there is not another sales agency on this continent, except the Cyanamid Co., which is trying to break into this business.

Mr. WILLIAMS. The Senator means the Canadian company?

Mr. PITTMAN. I mean the American company on the Canadian side of the Falls.

Mr. McCUMBER. Mr. President, as my State is neither a producer nor to any extent a consumer of this product, I can not be charged with being biased as to whether a duty should be levied from that standpoint at least, or, if one is levied, what it should be. But I think it quite proper that the Senate, before passing upon the question, should get a general view of the whole subject. I am afraid that we have so particularized that possibly we have lost sight of the general aspect of the question.

I agree with the Senator from Nevada in that I do not think it worth while to take into consideration whether the people who have the stock in the Roessler & Hasslacher Chemical Co. were loyal during the war or whether they were not. The evidence before us, I think, is now to the effect that the stock is owned by Americans, if the sale is confirmed and not set aside. But whether it is or not, here is the situation: We have on this side of Niagara Falls an American concern or a single concern, and it is practically the only concern, which is manufacturing this product in the United States. We have on the other side another concern, the stock being held by an American company, which is manufacturing the same product on the other side. The product which is manufactured on the Canadian side is one-half the strength of that manufactured upon the American side, but inasmuch as the product is sold, of course, according to the 100 or 98 per cent strength, that would make no difference because it is sold on the basis of the sodium content.

Mr. PITTMAN. The Senator does not mean to say that because it is half the strength, it is imposing any fraud on the buyer?

Mr. McCUMBER. Oh, no; I explained that it is sold according to its sodium content, and therefore it makes no difference.

Mr. PITTMAN. None at all. It is only the cyanide in the mass that counts for anything.

Mr. McCUMBER. Certainly; the Senator is exactly right, and that was merely explanatory of the way they were doing business. So far as the consumer is concerned, there are practically only two sources on this side of the Atlantic where he gets his cyanide, one from the American company producing cyanide on the Canadian side and the other from another company producing it on the American side. The Canadian, by reason of having to pay only about one-half the sum the American pays for the water power which is used for the product, is enabled to manufacture cheaper than it can be manufactured on the American side. The estimate made by the committee is that about 10 per cent would equalize the difference in the cost of the manufacture—that is, 10 per cent of 10 cents a pound, which would be equivalent to about 1 cent per pound. I think that is substantially correct.

I do not know that it would make much difference to the American people whether they are held up by one organization or whether they are held up by another organization. If we drive one out of existence, of course then we are subject entirely to the other. The duty that we place upon the product seemed to us to just about balance the matter of production, putting the product into the American market. If both were kept running, there would be at least competition. If one of them was closed, if our duty was so high that it would close the Canadian mill or factory, of course we would suffer by it. But if it were just sufficiently high to allow the Canadian to come in and compete upon equal terms, there would be sufficient competition, we believe, to keep them both going.

When we turned back to the war time and prior to the time that we were producing it in quantities in this country, we found that the price went up to 56 cents per pound. Immediately after the war it dropped down as low as a little over 6 cents per pound, and it is now quoted generally at about 10 cents per pound. So I think it is to the interest of the consumer that both these producers shall be continued in business, as there seems to be quite keen rivalry between the two. I do not believe that the 10 per cent ad valorem is going to stop the importation for a single day from the Canadian side. Remember, as the Senator from Nevada has said, our principal competition comes from Canada. Of about 8,000,000 pounds imported in 1921, over 5,000,000 pounds came from Canada. The other imports were divided between countries of Europe, with Germany considerably in the lead, but the probabilities are that the real contest and competition will be between the American-owned Canadian company and the American-owned American company.

As to the cost, according to the testimony of the witness for the Homestake Mining Co., if 33⅓ per cent duty were added to the cost of the product—and that was assuming that the 33⅓ then proposed would add so much to the cost of the cyanide—it would cost his company 1.6 cents per ton in addition. Then if we divide that by one-third it would cost about 5 mills per ton, or one-half of 1 cent per ton, for the use of the cyanide in extracting gold. Of course, Mr. President, I do not think that will amount to a great deal or that it will seriously affect the output of the Homestake Mining Co.

The Senator from South Dakota [Mr. STERLING], speaking on behalf of and for the Homestake Mining Co. in his State, called attention to the fact that while only 400 or 500 men were employed in the American factory to produce cyanide, there were 20,000 or more men, if I understood him correctly, employed in extracting gold from the ore. Assuming that to be the case—the Senator and I are both protectionists—and while both of us will vote for protection upon our cattle and upon beef, I call the attention of the Senator from South Dakota to the fact that where there is one beef producer there are millions of beef consumers in the United States. We are both going to vote for a protection upon flour, and I call his attention again to the fact that while there are millers in number, and while their employees are infinitesimal compared with the entire American public, still we as protectionists will vote a protection upon the flour as we do upon the wheat. We might take any one of the great concerns of the country which produce less than 50 per cent of all that is consumed, and the argument that is applied by the Senator from South Dakota would apply in different degree.

I do not think this will add materially to the cost of cyanide. I think if both companies operate they will compete with each other. I do not for one minute believe that the added duty of 10 per cent, which is equivalent to 1 per cent or less on cyanide, will drive the American company, which is producing on the Canadian side, out of business, nor am I doubtful, even if we had less than that, if it would drive the other company out entirely.

It will have this effect: The American company—that is, the one producing on the American side—also produces a great many other products. Its products are not exclusively cyanide. It can drop its cyanide business, and if the Canadian competition was too strong it would drop its cyanide business and continue with its other products. The moment that was done, then I am inclined to think that there would be quickly an understanding between the Canadian, the British, and the German, and we would pay very dearly for not allowing the American concern to continue in business.

Mr. CUMMINS. Mr. President, I would like to ask a question of the Senator from North Dakota, if he is willing.

The PRESIDING OFFICER (Mr. LADD in the chair). Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. Certainly.

Mr. CUMMINS. Why is it that the manufacturers upon the American side must pay more for their power than the manufacturers upon the Canadian side?

Mr. McCUMBER. I will read from the testimony which I have here, if the Senator will allow me to do so. This is the statement of Mr. Rigney, who represents the Roessler & Hasslacher Chemical Co. It is not denied, and those who represent the other side admit, they get their power cheaper. This is what Mr. Rigney says:

> Our Canadian competitors just across the Niagara River gets its hydroelectric power at about one-half the price we are obliged to pay on the New York side. Canadian power companies enjoy what is practically a Government subsidy, in that they are not obliged to pay either Dominion or local taxes. Hydroelectric energy is a very important factor in the production of cyanide, and is a large element in its production cost.

They have investigated this question, and, while there was a claim to the contrary, I think those representing the Canadian side of the industry admitted that there was a difference of about 1½ cents a pound in their favor. However, we gave only the equivalent of 1 per cent ad valorem.

Mr. CUMMINS. I do not yet quite understand who is responsible for that difference in the cost. Who fixes the cost of the power on the American side?

Mr. McCUMBER. It is fixed, I suppose, by the commission that has to do with the production of power on the American side, and the Canadian cost is fixed under the Canadian laws; and under the Canadian laws the company is exempted from the taxes to which reference has been made. Therefore they secure the power more cheaply than it can be obtained on the American side. I can hardly answer the Senator from Iowa as to why that is so.

Mr. CUMMINS. If the commission could fix the rate for power on the American side so as to equalize that cost, then the two companies would be able to compete with each other on even terms.

Mr. McCUMBER. I might say that I am informed by the expert that the Canadian process—whether it is a patented process or not I do not know—is a somewhat cheaper process, in addition to their power being cheaper.

Mr. FRELINGHUYSEN. Mr. President, a great many statements have been made in reference to the German ownership of the Roessler & Hasslacher Co. It is true a portion of the stock of that company—I think some 3,800 shares—were owned by German interests and were taken over by the Alien Property Custodian. I understand that those shares have been offered for sale, but that the sale fell through, and that the Alien Property Custodian is still holding them. The company was inaugurated by German interests which came here in 1897 and settled at Perth Amboy. There was also a large American investment in the company. They manufactured chemicals prior to the war. They were a reputable concern, as were many of the other German concerns which came here and established industries, and during the war they were managed by American citizens and not by the Alien Property Custodian.

They manufactured cyanide of potassium, which was much needed during the war. They kept their prices uniform, as is shown by the scale of prices which I introduced in the record some time ago at about 30 cents per pound, I think, or perhaps 2 or 3 cents above or below that price.

I have written a good many of the industries in my State asking what their experience with this concern was, and they have stated that they were treated very fairly by the company during the war; that the company did not profiteer when the supply of cyanide from Germany was cut off; and that they were enabled to get the product which they used and utilized in their industries at a very reasonable price.

The situation is this: The large mining companies in the West do use 1,000,000 or 1,250,000 pounds of cyanide of potassium, but the American consumption is 17,000,000 pounds a year. It is utilized in many of the industries in my State, which are willing that cyanide should be protected because they feel that they should be independent of foreign countries. Besides that, 15,000,000 pounds of caustic soda and charcoal and ammonia are used, and those American products are utilized.

The question is whether we are going to protect this industry or are going to destroy it simply because the Homestake Mining Co. or the Tonapah Mining Co., which are making probably as large profits as do the Roessler & Hasslacher Co., want to cut down their costs of gold mining. That is the point. The question is one of protecting the American industry as against a Canadian industry, into which American capital has gone, in order to secure lower water-power rates, and which employs Canadian labor and uses Canadian raw materials, as I am informed. The whole principle of protection to American industry will be destroyed in this instance if this article is placed on the free list, when prior to 1913, as I understand, it had a protective tariff higher than the duty now proposed to be imposed by the Finance Committee.

Mr. NORRIS. Mr. President, the Senator from Iowa [Mr. CUMMINS] has asked a very interesting question, namely, Why is the hydroelectric power cheaper on the Canadian side than it is on the American side? The Senator from New Jersey [Mr. FRELINGHUYSEN] has just said that American capital went over into Canada across the river, where it could get cheaper hydroelectric power.

Not long ago a great many corporations engaged in the production of hydroelectric power in America appointed a very noted engineer to investigate the cost to the consumer of hydroelectric power in Canada and in America. The Canadian hydroelectric energy comes from governmental operation. In America it is privately owned. It was to the interest of those interested to show that privately owned concerns supply the consumer with electricity cheaper than public concerns over in Canada, and the noted engineer to whom I have referred made that kind of a report after a full investigation, and concluded that the consumers in America were supplied with hydroelectric power cheaper than it was supplied to the Canadian people by the government-owned operations. That was when they were trying to prevent Government operation of hydroelectric plants on our streams and to foster the idea of having such operations conducted by privately owned concerns. When it is looked at from that viewpoint they are able to demonstrate from expert testimony that private concerns furnish the power cheaper and that we have cheaper electricity on this side than on the Canadian side. When, however, for the purpose of a tariff it is to their interest to show that electric power is cheaper in Canada, they reach the opposite conclusion, and we are told that this corporation went to Canada, where they could buy their electric energy cheaper than they could in America. So Senators can take their choice; it is "heads I win and tails you lose."

Mr. STANLEY. Mr. President, did the same experts reach a different conclusion at the same time?

Mr. NORRIS. No; that would make an argument that would be too easily refuted; there were different experts, of course.

Mr. ODDIE. Mr. President, I think it will be found on investigation that the American Cyanamid Co. uses practically twice the amount of power for manufacturing their product as is used by the concern on the American side; so it is necessary that they have cheaper power.

I should like further to emphasize the fact that the American Cyanamid Co. which manufactures its products on the Canadian side buys all of its raw material from Pennsylvania and other of our States.

Mr. HITCHCOCK. Mr. President, I think this case presents a most delightful specimen of the possible absurdities of the protective tariff system. The Niagara River flows between Canada and the United States; the people living on the Canadian side of the river are very much like the people living on the United States side of the river; the same water gives power on each side of the river; but now we are told that it is necessary to have a protective tariff enacted in order that a factory on the American side of the river shall be able to compete with a factory on the Canadian side of the river, although each factory derives its power from the electric current generated by the same stream of water at the same time.

Mr. WILLIAMS. Probably they have pauper water on the Canadian side and pauper labor.

Mr. HITCHCOCK. Yes; as the Senator from Mississippi suggests, they have probably pauper water and pauper electric current on the Canadian side of the river and that may make a difference.

Mr. STANLEY. Mr. President, I am very much surprised at the argument of the Senator from Nebraska, who is a great scholar and a great statesman. Does he not know that hydroelectric power is derived by force of gravity acting upon a cubic foot of water falling a certain distance, and does he not know that there is a different law of gravitation on the Canadian side than that which prevails on the American side? Does he not further know that we are bound to equalize the difference in the operations of a natural law on the one side of the Niagara River as against the other, or the law of gravitation will bankrupt everybody on this side?

Mr. HITCHCOCK. There seems to be a very violent dispute between the tariff law and the law of gravitation in this case.

Mr. ODDIE. Mr. President, will the Senator yield?

Mr. HITCHCOCK. I yield to the Senator.

Mr. ODDIE. I should like to suggest to the Senator that the American Cyanamid Co., which manufactures this product on the Canadian side, pays practically the same wages that are paid in the United States. There is also another principle involved here: The Senator knows that the price of gold has been fixed by the Government, and the Senator knows that a duty on cyanide will add an increased burden on the gold-mining industry which can not be passed on to the consumer, because the Government has fixed the price.

Mr. HITCHCOCK. Mr. President, I must say I view the position of the Senator from Nevada [Mr. ODDIE] with somewhat mixed feelings. I would sympathize with his position, as representing the mines of Nevada, if he had the same interest in protecting the American consumer in other schedules of this outrageous tariff bill that he now manifests when it hits particularly a special interest of his own constituents. This tariff duty levied against this particular article, cyanide, is not any more iniquitous, so far as the consumers of cyanide are concerned, than many of the other rates are against the plain, ordinary garden variety of consumers—the American citizen. I notice that a number of Republicans over there who are very ardent for imposing outrageous duties for the protection of their industries and for the extortion of higher prices from the American consumers seem to see a new light when a tariff duty is imposed in such a way as to increase the cost of certain articles for particular industries in their States, and yet the principle is exactly the same.

Seriously, however, I intended when I rose to refer to the fact that testimony taken before the Committee on Foreign Relations some years ago, when that committee had under consideration the question of hydroelectric power on the Canadian side of the river and the United States side of the river did not reveal that there was any difference in cost to speak of. There may be a little exemption from taxation, which has already been commented upon by the Senator from Iowa, but that is more than overcome by the fact that the factory on the Canadian side of the river not only pays the same for labor on that side that the power-house pays on this side of the river but it purchases in the United States many of the materials which it uses; and to bring in here as an excuse for the imposition of this tariff the fact that there is a fractional difference in the cost of power on the Canadian side of the river and on the American side is to my mind absurd.

Mr. President, as I understand, this is the history of the power situation along the Niagara River: We entered into a treaty with Canada for the purpose of preserving Niagara Falls. We were the moving party. The United States was active in bringing about the treaty; and in order to induce Canada to consent to a limitation of the water power to be taken out of the Niagara River, we agreed that the United States would consume less of that power than we accorded to Canada the right to consume. The actual fact is to-day that we are using all of our power on this side of the river, and not only that, but we are bringing power from Canada over to the United States side by wire and are actually using Canada's hydroelectric power on the United States side of the river in competition with the power which we take out on this side of the river.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Iowa?

Mr. HITCHCOCK. I yield to the Senator.

Mr. CUMMINS. The Senator from Nebraska was in error when he said that I commented upon the exemption from taxation upon the Canadian side, for I knew nothing about it. That was a statement made by the Senator from North Dakota [Mr. MCCUMBER]. What I was interested in was in finding out, if I could, why it costs more for power upon the American side than upon the Canadian side. I knew that some years ago the very unfair arrangement was made between the United States and Canada that allowed Canada to use a greater proportion of the power developed by Niagara Falls under that arrangement than was permitted in the United States. I suppose there is no way of avoiding that unjust arrangement, as I regarded it at the time, and still regard it; but who determines what the manufacturer on either side of the river shall pay for the power developed? That is what I want to know; and the Senator from Nebraska, having been very familiar with the arrangement made between the United States and Canada, may be able to answer that question.

Mr. HITCHCOCK. I am not certain that I can, Mr. President. I have the impression, however, that the New York Legislature has assumed jurisdiction to regulate in some way the charge for the power or the distribution of the power in the State of New York. I know that the War Department has had some authority in licensing those who take water power from the supply, but I think the New York Legislature has placed some limit upon the charge.

Mr. CUMMINS. Then the Senator thinks that it is the Government—either the New York government or the United States Government—that determines what the American manufacturer upon this side shall pay for the power which is developed in his factory, whatever business he may be in; and it must be the Canadian Government that fixes the rate which shall be paid for power developed upon the other side.

Mr. HITCHCOCK. I think that is probable.

Mr. CUMMINS. What is the difference between the two? That is what I am trying to find out. The statement read by the Senator from North Dakota does not satisfy me at all, because, whoever the gentleman is, he refers to the effect upon the output rather than to the terms under which each of the companies is operating.

Mr. HITCHCOCK. Mr. President, of course I do not know. I think the burden of proof is upon the committee, if it proposes to impose this barrier against this import from a single factory on the other side of the river, to show why it is done and what the difference is. The only thing that the chairman of the committee has stated is that the Canadian Government makes some exemption from taxation. That would be explained by what my colleague [Mr. NORRIS] has said, that on the Canadian side the Government has erected the power plant and sells the power at a moderate cost, probably, to the consumers there. I am advised, however, that there is an excess of power on the Canadian side of the river, and that the power on the United States side of the river is fully consumed, so that under a license it has already happened that power has been brought from the Canadian side of the river by wire over to the American side and sold to the establishments on the United States side of the river.

If that is the case, I suggest to the chairman of the Committee on Finance at this time that a tariff ought to be imposed against that pauper electric current coming over from the Canadian side and being sold in competition with the United States current on this side. If we are actually getting pauper electricity from the Canadian side of the river, there ought to be a tariff imposed against it for the protection of the electricity of the United States.

But, Mr. President, how about the Republican doctrine of the infant industry? Here we have been told that the manufacture of cyanide in this country is a monopoly; that it is allied with the German monopoly; that it is a part of it; that it has been in existence since 1885; that it is a long-established and a wealthy monopoly, making a profit so great that it runs up into the hundreds of per cents, as I understood the Senator from Nevada to say. It has been in operation 38 years, and is making enormous profits. On the other side of the river, the Canadian side, the only competition is from an establishment only built during the war, which has only just barely begun to enter the American market; and yet it is necessary against that infant on the other side of the river to impose this tariff for the protection of this giant, this rich and prosperous concern, upon the United States side of the river.

Mr. FRELINGHUYSEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from New Jersey?

Mr. HITCHCOCK. I yield to the Senator.

Mr. FRELINGHUYSEN. Does the Senator know who owns the American Cyanamid Co.?

Mr. HITCHCOCK. I understood that the ownership had been pretty well established so far.

Mr. PITTMAN. Mr. President, the testimony—and that is all I am going by—is to the effect that the stock is owned by American citizens, that it is a Maine corporation, and that all the material it buys, except the water power, is bought in the United States.

Mr. HITCHCOCK. What I say, Mr. President, and then I have not anything more to say, is that this is really the height of absurdity. This is carrying the old idea of protection to an absolutely absurd point.

Mr. WILLIAMS. Mr. President, I want to say just one word.

This is the newest theory for the justification of a tariff tax that I have ever heard. I have heard the infant-industry theory. I know it by heart. I have heard the pauper-labor theory. I know that nearly by heart. I have heard of the independence-of-industry theory. I know that tolerably well. This, however, seems to be an effort to protect ourselves or our industries against greater taxes in the United States than exist in some other countries—in other words, to vote out of the Treasury a certain amount of money collected by taxation in order to make up for the inefficiency of the Government of the United States in levying taxation of another character.

Surely the water is not pauper. The taxation may be pauper because it is less than ours, as wages are said to be pauper whenever they are less; but to begin this brand-new theory that wherever taxation in another country is less than it is in America we ought to have a tariff to equalize the burdens which our own State or National Legislatures have laid upon our own industry is the newest brand-new thing that has ever been suggested to a political economist.

Mr. ASHURST. Let us have the yeas and nays, Mr. President.

Mr. MCCUMBER. Mr. President, the Senator from Mississippi [Mr. WILLIAMS] is almost always absolutely fair in his discussion of every subject, and if he breaks away from his good rule once in a lifetime I can easily excuse him for doing it.

Mr. President, we are not attempting to make the taxation basis, any more than we are attempting to make the law of gravity, the rule by which we are to determine whether a thing costs more or less on the Canadian side. Freedom from taxes, relief from taxes, may enable a company upon the Canadian side to sell its power cheaper than one on this side which has to pay taxes; but, after all, it is a difference in the cost of the hydroelectric power without reference to what was the cause of making it cheaper on the one side or on the other.

Mr. WILLIAMS. That is all I have said; and if I am mistaken in the statement that there is a desire to equalize our

overtaxation with the Canadian undertaxation as compared the one with the other, then I got the information, as I thought, unless I misheard him, from the Senator himself a moment ago. I thought he said that the fact that these people could undersell us in their power was owing to the fact that they were taxed less; in other words, they were exempt from certain taxes in Canada to which the power on this side was subjected. Is not that true? Is not that what the Senator said?

Mr. McCUMBER. The real thing that is true is the fact that they sell their power to produce the cyanide on the Canadian side cheaper than the same power can be bought on this side.

Mr. WILLIAMS. Then we come to just what I said.

Mr. McCUMBER. The Senator asked me why that was so, and, of course, I had to tell the Senator why it was so, and that was one of the elements entering into the reason.

Mr. WILLIAMS. I did not ask the Senator why it was so. I merely made the statement that, according to the Senator's statement, he wanted this tariff tax because the power paid less taxation in Canada than it did on the American side.

Mr. McCUMBER. No, Mr. President; the Senator is mistaken.

Mr. WILLIAMS. Then I made the further statement that that was a brand new theory, to the effect that we must equalize between the undertaxation of a foreign country and the overtaxation of our own; in other words, that if we were, compared to a foreign country, inefficient and uneconomical as a governmental agency, then we must levy a tax upon all the people, who were not to blame for the legislation, in order to equalize the inequality thereby produced.

Mr. McCUMBER. The Senator was mistaken, because, of course, I took no such view. I stated that it cost more for the hydroelectric power on this side of the river than it cost upon the other, and, as that is used in the production of cyanide, it must necessarily cost more to produce upon this side than upon the other, other things being equal. It made no difference to me what the causes were which entered into a higher charge being made upon this side than upon the other side, but, inasmuch as the Senator from Iowa asked me for the reasons, I proceeded to give him one of the reasons, which was that on the Canadian side the Canadian producer, which is really the Government, is not subjected to any taxation whatever, whereas on the American side the producer does have to pay his taxes.

But there is another reason I want to give, in addition to that, which the Senator from Mississippi and myself always agree is one of the governing factors in fixing prices, and that is the law of supply and demand. On the American side the amount of power allotted has been used up, and you can not get any more power from the American side at the present time. They have sold all of the power they have, and have nothing more to sell, and can hold up their prices, whereas on the Canadian side they have more power than they have customers for, and therefore, in order to sell the power, they can sell cheaper.

Taking that in connection with the fact that they are not subjected to taxes, they actually do sell their power cheaper, and, as I understand, it stands in the ratio of about 12 to 8—that is, 12 on the American to 8 on the other side—and that makes a material difference in the cost of production. So we tried by our duty to about equalize the cost of production on the one side and on the other.

Mr. WILLIAMS. Mr. President, I would like to ask the Senator this question, for I have the highest admiration and respect for his intellectual integrity: Does not the Senator really think that the difference in price at which these two companies can sell their products is more owing to the superiority of patents of the company which is operating on the Canadian side to the patent of the company operating on this side than to any other one cause?

Mr. McCUMBER. I gave the three. I mentioned that as one of the elements.

Mr. WILLIAMS. Does the Senator think that the taxing power of the United States ought to be used for the purpose of overcoming intellectual inferiority in methods pursued on our side of the Niagara River?

Mr. McCUMBER. After a patent is once obtained by a company the question of intellectual superiority on inferiority does not enter into it to any extent. The other company can not use the patent, while the company which owns it can use the patent.

Mr. WILLIAMS. But one is using the more intellectual process than the other, a superior process, and that is a grade of intellectual comparison.

Mr. McCUMBER. But the three elements enter into the question, and the fact remains that the Canadian does produce cheaper.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada [Mr. ODDIE] to the committee amendment.

Mr. ASHURST. May we have the amendment stated again so that we will understand the particular question to be voted on?

The PRESIDING OFFICER. The Secretary will state the amendment to the amendment.

The ASSISTANT SECRETARY. The Senator from Nevada moves to strike out the committee amendment where it appears on page 18, known as paragraph 33a, and to insert the same words, down to the word "cyanide," on line 5, at page 220, after line 11, as paragraph 1560a, or in the free list.

Mr. PITTMAN. As I understand it, an affirmative vote means to put it on the free list, and a negative vote means 10 per cent ad valorem?

The PRESIDING OFFICER. That is correct.

Mr. HARRISON. I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. FRELINGHUYSEN (when his name was called). Making the same announcement as before, I vote "nay."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. SIMMONS (when Mr. OVERMAN's name was called). I desire to announce that my colleague [Mr. OVERMAN] is unavoidably detained from the Senate. I ask that this announcement may stand for the day.

Mr. WARREN (when his name was called). Making the same announcement as to my pair and its transfer that I made earlier in the day, I vote "nay."

Mr. WATSON of Georgia (when his name was called). Making the same announcement as before, I vote "yea."

Mr. WILLIAMS (when his name was called). I have a general pair with the Senator from Indiana [Mr. WATSON]. I transfer that pair to the Senator from Louisiana [Mr. RANSDELL] and vote "yea."

The roll call was concluded.

Mr. JONES of Washington. I wish to announce the following pairs:

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The junior Senator from Ohio [Mr. WILLIS] with the senior Senator from Ohio [Mr. POMERENE];

The Senator from Indiana [Mr. NEW] with the Senator from Tennessee [Mr. McKELLAR]; and

The Senator from New York [Mr. CALDER] with the Senator from Alabama [Mr. HEFLIN].

The result was announced—yeas 46, nays 14, as follows:

YEAS—46.

Ashurst	Hitchcock	Myers	Simmons
Bursum	Johnson	Nelson	Smith
Capper	Jones, N. Mex.	Newberry	Spencer
Cummins	Jones, Wash.	Nicholson	Stanley
Dial	Kellogg	Norbeck	Sterling
Elkins	Kendrick	Norris	Swanson
Ernst	Keyes	Oddie	Underwood
Fletcher	Ladd	Phipps	Walsh, Mass.
Gerry	La Follette	Pittman	Watson, Ga.
Glass	Lodge	Rawson	Williams
Harris	McKinley	Robinson	
Harrison	McNary	Sheppard	

NAYS—14.

Ball	Frelinghuysen	McLean	Sutherland
Brandegee	Gooding	Page	Warren
Dillingham	Hale	Pepper	
France	McCumber	Smoot	

NOT VOTING—36.

Borah	du Pont	Moses	Shortridge
Broussard	Edge	New	Stanfield
Calder	Fernald	Overman	Townsend
Cameron	Harreld	Owen	Trammell
Caraway	Heflin	Poindexter	Wadsworth
Colt	King	Pomerene	Walsh, Mont.
Crow	Lenroot	Ransdell	Watson, Ind.
Culberson	McCormick	Reed	Weller
Curtis	McKellar	Shields	Willis.

So Mr. ODDIE's amendment to the committee amendment was agreed to.

Mr. HARRISON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRISON. Is it in order for the Secretary to tell us how many Republicans failed to vote on the roll call just had?

The PRESIDING OFFICER. It is not in order at this time.

Mr. McCUMBER. In order to see whether it is necessary for any protection in placing this product upon the free list,

I ask the Secretary to read the proposed amendment which was just agreed to.

The ASSISTANT SECRETARY. It is proposed on page 18 to strike out all of the committee amendment and to insert the same words, down to and including the word "cyanide" printed on line 5, at page 220. after line 11, as follows:

PAR. 1560a. Cyanide, potassium cyanide, sodium cyanide, all cyanide salts and cyanide mixtures, combinations and compounds containing cyanide.

Mr. McCUMBER. I understand that is all included in the one motion?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCUMBER. I wish to suggest to the mover of the amendment that we ought to have in it, after the word "cyanide," the words "not specially provided for." I ask if it was his desire to eliminate that?

Mr. ASHURST. Mr. President, a point of order. That may not be done under the precedent established to-day. We are falling into the very trap against which some of us warned Senators. The Senate having adopted an amendment to the amendment it can not further amend the provision under the precedent set to-day.

Mr. McCUMBER. The Senator is entirely wrong.

Mr. LODGE. This was a rejection.

Mr. ASHURST. No; it was not a rejection.

Mr. PITTMAN. As I understand it, we have now adopted an amendment to the committee amendment. Is not the question now upon the adoption of the committee amendment as amended?

Mr. McCUMBER. My query was whether it is the desire of the Senator from Nebraska to eliminate the words "not specially provided for,' because there are so many of the products that are specially provided for that, in order to make the matter certain, these words should be included, as the item is carried over into the free list.

Certainly no one is claiming for a single moment that we can change the vote which has been had and which has stricken this item off the dutiable list and put it upon the free list, but of course we can amend in a manner which does not change that, and perfect it as it goes into the free list. I wanted to get the opinion of the two Senators from Nevada, who have taken a strong interest in this item, as to whether that usual provision should go in at the end of the paragraph.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. I may have misheard, but I understand that the only thing done was to strike out the duty fixed by the committee. If that be the case, the question arises whether the product is dropped into the basket clause or whether it is left upon the free list.

Mr. McCUMBER. The Senator is mistaken. I understand the motion was to strike it from the dutiable list and insert the same in the free list.

Mr. WILLIAMS. Then I was mistaken.

Mr. McCUMBER. But in the motion there were not included the words "not specially provided for."

Mr. PITTMAN. I think we can take that matter up after the question is voted on finally. I am perfectly sure that we can take that matter up, and if there is anything to be eliminated along that line we can do it then.

Mr. McCUMBER. There is no question that we can.

Mr. PITTMAN. I now ask for a vote upon the amendment as amended.

Mr. McCUMBER. I have no objection. I only desired to get the Senator's wish, because when we reach it in the Senate, or otherwise, the usual clause should be inserted.

Mr. PITTMAN. Yes; that is very true.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

The PRESIDING OFFICER. What item does the Senator from North Dakota wish to take up next?

Mr. McCUMBER. I desire now to go to page 20, paragraph 47.

The PRESIDING OFFICER. The Secretary will report the amendment on that paragraph.

The ASSISTANT SECRETARY. On page 20, paragraph 47. Magnesium: Carbonate. The committee proposes, in line 18, to strike out "three-fourths" and insert "one-half," so as to read:

Chloride, one-half of 1 cent per pound.

Mr. SMOOT. Would it not be better to take up paragraph 204a?

Mr. JONES of Washington. My colleague is not here, and I know that he expects to take up that paragraph after the dye proposition is disposed of.

Mr. SMOOT. He told me he would be ready to go on with it to-day.

Mr. JONES of Washington. I spoke to him about it on Saturday, and he said he would be ready to take it up after the dye proposition was discussed.

Mr. SMOOT. I spoke to the Senator's colleague to-day right after we convened, and he said he could go on with it to-day if we reached it.

Mr. JONES of Washington. He is not here, and he ought to be here when it is taken up, because he has given it special attention. I think he is absent on committee work, but I do not know exactly where he is.

Mr. McCUMBER. Let me first explain the situation as indicated by the question of the Senator from Utah. The committee proposes to strike out, on line 22, the words "and calcined magnesite, including dead burned and grain, three-fourths of 1 cent per pound; and magnesite, crude or ground, one-half of 1 cent per pound." Then in lieu of that they propose to insert, on page 33, in paragraph 204a, the words, "Crude magnesite, five-sixteenths of 1 cent per pound, caustic calcined magnesite, five-eighths of 1 cent per pound," and so forth. That is, to take it out of the chemical schedule where it is placed now and put it into the earthen schedule where it belongs, and to change it to some extent. So it does not make very much difference which one we take up first. Inasmuch as I do not think it belongs in this schedule, we should first decide to take it out of this schedule, and when we reach it in the proper place then we can determine what the rate should be.

Mr. JONES of Washington. What my colleague desires, and I know what I desire, is to defeat the amendment on page 20 and leave the rate as the House provided.

Mr. SMOOT. I think it would be very much better to take up paragraph 204a, crude magnesite, first.

Mr. McCUMBER. It does not make a bit of difference to me. We have both before us, and if it is more convenient to Senators I will ask that we take up paragraph 204a, on page 33.

Mr. JONES of Washington. Mr. President, I am not prepared to say that we want to take that up now. My colleague is on the way here, and he has made special preparation to take up the subject. It seems to me proper to take up the amendment on page 20. I know that would be my preference, so far as I am concerned. My colleague is on the way now and will be here in just a few moments, so if there is anything else we can take up, probably it would be well to do so. He will be here inside of two or three minutes.

Mr. McCUMBER. Can not the senior Senator from Washington discuss the matter?

Mr. JONES of Washington. My colleague is specially prepared to discuss it, and I would prefer that he should do it.

Mr. McCUMBER. I understand the Senator's colleague is at the Attorney General's office. So he can hardly get here in a few minutes. However, I will see if I can find another paragraph. Can we proceed to paragraph 319, the metal schedule, anchors?

The PRESIDING OFFICER. The paragraph will be reported.

The ASSISTANT SECRETARY. On page 61, paragraph 319, in line 16, the committee proposes to strike out "25" and insert "30," so as to read:

Iron or steel anchors and parts thereof; forgings of iron or steel, or of combined iron and steel, not machined, tooled, or otherwise advanced in condition by any process or operation subsequent to the forging process, not specially provided for, 30 per cent ad valorem.

Mr. ROBINSON. My colleague the junior Senator from Arkansas [Mr. CARAWAY] has looked into this subject and he is not in the Chamber just now. He left here with the understanding that other paragraphs in the schedule passed over would be taken up. Is there not something in the other schedules that might be considered now? What about brick?

Mr. McCUMBER. We have agreed that we will not act upon brick until we get through with magnesite, because it enters into brick.

Mr. ROBINSON. It may be appropriate to postpone it. I had not entered into any such agrement, however. It went over at the request of Senators on the other side of the Chamber for several days because they were not prepared to take it up. I was not informed of any such agreement.

Mr. McCUMBER. There is so much confusion in the Chamber that I can not understand what is going on. Does the Senator object to taking up paragraph 319?

Mr. ROBINSON. I have just stated that my colleague [Mr. CARAWAY] had looked into that paragraph and had expected to discuss it. He is on his way over here now, I am told.

Mr. SIMMONS. I understand the Senator from Texas [Mr. SHEPPARD] has some other matter which he was looking after that he is ready to take up now.

Mr. SHEPPARD. Paragraphs 351, 352, and 353 might be disposed of without any considerable discussion. No changes have been made by the committee in paragraphs 351 and 352, and there is only one amendment that I desire to offer to paragraph 353.

Mr. McCUMBER. Very well.

The ASSISTANT SECRETARY. On page 71, paragraph 353, fountain pens, in line 15, the committee proposes to strike out "valued at not more than $2 per dozen, 72 cents per dozen; valued at more than $2 and not more than $6 per dozen, $1.50 per dozen; and in addition thereto, on all of the foregoing, 25 per cent ad valorem" and to insert "72 cents per dozen and 40 per cent ad valorem," so as to read:

Fountain pens, fountain penholders, stylographic pens, and parts thereof, 72 cents per dozen and 40 per cent ad valorem: *Provided*, That the value of cartons and fillers shall be included in the dutiable value.

Mr. SHEPPARD. Mr. President, while the committee has not attempted to amend paragraph 351, I think it well to submit a few comments upon it.

Mr. McCUMBER. Mr. President, the Senator's argument may read very well to-morrow in the RECORD, but it is of no advantage to us here unless we may hear it, if we are going to vote on the question to-day.

Mr. SHEPPARD. No vote can be taken on this paragraph, because the committee has made no change in it; and I merely want to submit a brief comment on it preparatory to offering an amendment when an amendment shall be in order.

Mr. LODGE. The Senator from Texas is speaking about paragraph 351?

Mr. SHEPPARD. I refer to paragraph 351.

Mr. LODGE. There is no amendment to paragraph 351, and only amendments to committee amendments are now in order.

Mr. SHEPPARD. I understand that; but I merely wish to make certain comments on this paragraph and the following one before proceeding to paragraph 353. My remarks will be brief; they will not take up much time.

Mr. McCUMBER. All I desire to do is to hear the Senator from Texas.

Mr. SHEPPARD. Mr. President, I wish to say a word with reference to paragraph 351, which reads as follows:

Pens, metallic, not specially provided for, 12 cents per gross; with nib and barrel in one piece, 15 cents per gross.

It should be said that this paragraph repeats the action of the House without change, and reproduces without change the provisions relating to these articles in the Payne-Aldrich bill of 1909. The rates carried in this paragraph as it reaches the Senate, and as they appeared in the bill as passed by the House and in the Payne-Aldrich enactment, involve an increase over existing Democratic duties of about 25 per cent. The increase is not justified. In 1919 the home production of these pens had a value of $1,706,000, exports a value of $569,239, and imports a value of about $277,000.

In 1920 the imports amounted to about $400,000, and during the first nine months of 1921 to $170,000, approximately.

The exports had a value in 1920 of $489,826, and during the first nine months of 1921 of $83,165. So we see, Mr. President, that under the existing Democratic rate the domestic industry is not only meeting domestic needs, but that there is a considerable volume of exportations from year to year.

In 1919 the principal countries to which these articles were exported were the United Kingdom, British India, Brazil, and Cuba, and in 1920 the United Kingdom, Brazil, British India, and Cuba.

As to the next paragraph, paragraph 352, dealing with "penholder tips, penholders and parts thereof, gold pens, combination penholders comprising penholders, pencil, rubber eraser, automatic stamp, or other attachments, it may be said that under the existing Democratic rate there was in 1919 an output valued at $1,801,000. The imports in that year amounted to only about $7,000 and the exports to $200,354, yet the pending bill proposes a substantial advance over the present Democratic tariff of 25 per cent ad valorem.

I may say here that home production under the existing rate grew from a value of $642,461 in 1914 to $1,801,000 in 1919, showing that the industry is making steady progress under the existing tariffs, and that, therefore, there can be no good reason for so pronounced an increase as is proposed by the bill as it came from the other House.

The imports in 1920 had a value of $12,000 and during the first nine months of 1921 of about $8,000.

The exports in 1920 had a value of $222,376 and during the first nine months of 1921 a value of $146,243.

The principal countries to which exports of these articles were sent in 1919 were the United Kingdom, Canada, Brazil, and Argentina, and in 1920 the United Kingdom, Canada, Argentina, and British India. There again, Mr. President, the fact that the domestic industry is not only supplying all the needs of the American people but is exporting considerable amounts in addition, while imports remain so small, is certainly an argument against any increase in the duties.

Now we come to paragraph 353, which reads as follows:

PAR. 353. Fountain pens, fountain-pen holders, stylographic pens, and parts thereof, valued at not more than $2 per dozen, 72 cents per dozen; valued at more than $2 and not more than $6 per dozen, $1.50 per dozen; and in addition thereto, on all of the foregoing, 25 per cent ad valorem: *Provided*, That the value of cartons and fillers shall be included in the dutiable value.

The duty on these articles in the existing Underwood-Simmons Act is 25 per cent ad valorem. It might be well to call attention here to the fact that under the existing Democratic duty this industry has grown from a total capital of $3,269,809 in 1914, with an output valued at $6,865,074, to a total value of output in 1919 of $15,997,000, showing a healthy and remarkable development.

The imports in 1919 amounted to but $12,169, and during the first nine months of 1921 to but $51,482, the proportion of imports to home production being remarkably small, and certainly not large enough to justify the claim that importations are threatening the domestic industry.

Let me call attention to the fact that a considerable volume of exportations has occurred in connection with this industry. In 1919 the exports had a value of $409,517; in 1920 of $518,410; and during the first nine months of 1921 of $197,569. Certainly, Mr. President, an increase in the duty can not be supported when we take these facts into consideration.

I therefore move, in lieu of the amendment recommended by the Senate committee, to insert the words "25 per centum ad valorem," that being the existing rate, the rate under which the industry is making such satisfactory progress. I ask for the yeas and nays on the amendment to the amendment.

The PRESIDING OFFICER. The amendment proposed by the Senator from Texas will be stated.

The READING CLERK. In the committee amendment, on page 71, at the beginning of line 19, it is proposed to strike out "72 cents per dozen and 40 per centum ad valorem" and to insert "25," so as to read "25 per centum ad valorem."

Mr. SHEPPARD. I also wish to strike out the other part of the amendment recommended by the committee.

The READING CLERK. It is also proposed to strike out after the word "thereof," in line 15 down to and including the words "ad valorem," on line 18.

Mr. SHEPPARD. That is correct.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. WARREN (when his name was called). Announcing the same pair that I announced earlier to-day, I vote "nay."

Mr. WATSON of Georgia (when his name was called). Repeating the announcement that I made before, I vote "yea."

The roll call was concluded.

Mr. HALE. Making the same announcement as before, I vote "nay."

Mr. DILLINGHAM. I have a general pair with the junior Senator from Virginia [Mr. GLASS]. Observing that he has not voted, I transfer my pair to the junior Senator from Oklahoma [Mr. HARRELD] and will vote. I vote "nay."

Mr. FRELINGHUYSEN. Making the same announcement as before, I vote "nay."

Mr. WILLIAMS (after having voted in the affirmative). I find that the Senator from Indiana [Mr. WATSON], with whom I have a pair, has not voted. I transfer that pair with him to the Senator from Montana [Mr. MYERS] and will let my vote stand.

Mr. STERLING (after having voted in the negative). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from New Hampshire [Mr. MOSES] and will let my vote stand.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from New York [Mr. CALDER] with the Senator from Alabama [Mr. HEFLIN];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Indiana [Mr. NEW] with the Senator from Tennessee [Mr. MCKELLAR]; and

The Senator from Ohio [Mr. WILLIS] with the Senator from Ohio [Mr. POMERENE].

The result was announced—yeas 21, nays 38, as follows:

YEAS—21.

Ashurst	Harrison	Robinson	Walsh, Mass.
Caraway	Hitchcock	Sheppard	Watson, Ga.
Dial	Jones, N. Mex.	Simmons	Williams
Fletcher	La Follette	Stanley	
Gerry	Norris	Swanson	
Harris	Ransdell	Underwood	

NAYS—38.

Ball	Frelinghuysen	McCumber	Phipps
Brandegee	Hale	McKinley	Rawson
Broussard	Johnson	McLean	Shortridge
Bursum	Jones, Wash.	McNary	Smoot
Capper	Kellogg	Nelson	Spencer
Curtis	Kendrick	Newberry	Sterling
Dillingham	Keyes	Norbeck	Sutherland
Elkins	Ladd	Oddie	Warren
Ernst	Lodge	Page	
France	McCormick	Pepper	

NOT VOTING—37.

Borah	Glass	Nicholson	Townsend
Calder	Gooding	Overman	Trammell
Cameron	Harreld	Owen	Wadsworth
Colt	Heflin	Pittman	Walsh, Mont.
Crow	King	Poindexter	Watson, Ind.
Culberson	Lenroot	Pomerene	Weller
Cummins	McKellar	Reed	Willis
du Pont	Moses	Shields	
Edge	Myers	Smith	
Fernald	New	Stanfield	

So Mr. SHEPPARD's amendment to the amendment of the committee was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. MCCUMBER. I ask that we may proceed now to the consideration of paragraph 354.

The ASSISTANT SECRETARY. Paragraph 354: Penknives, pocketknives, clasp knives——

Mr. JONES of New Mexico. Mr. President, I had an understanding on Saturday that those paragraphs relating to cutlery would go over until Wednesday. There was no announcement in the Chamber, but the chairman of the committee doubtless will recall our conversation on the subject.

Mr. MCCUMBER. I will say to the Senator that there are so everlastingly many of these requests that I can not keep them all in mind without putting them down. Certainly if I so agreed, it will go over.

Mr. ROBINSON. We shall be glad to take up paragraphs 319 and 320 now, if the Senator desires to do so.

Mr. MCCUMBER. Very well, Mr. President; then we will return to paragraph 319.

The PRESIDING OFFICER. The amendment of the committee will be stated.

The ASSISTANT SECRETARY. On page 61, line 16, the committee proposes to strike out "25" and insert "30," so as to make the paragraph read:

PAR. 319. Iron or steel anchors and parts thereof; forgings of iron or steel, or of combined iron and steel, not machined, tooled, or otherwise advanced in condition by any process or operation subsequent to the forging process, not specially provided for, 30 per cent ad valorem.

Mr. ROBINSON. Mr. President, I offer the following amendment:

On line 16, strike out "30" and insert in lieu thereof "15," so that, if amended, it will read: "15 per cent ad valorem."

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Arkansas to the amendment of the committee.

Mr. ROBINSON. Mr. President, I will make a brief statement in connection with the amendment.

The present rate is 12 per cent ad valorem. The House incorporated in the bill a rate of 25 per cent, and the committee proposes by its amendment to raise that to 30 per cent ad valorem. A brief investigation of the facts in connection with this item does not appear to justify the committee rate.

Two general classes of products are embraced within the paragraph, namely, anchors and forgings. The manufacture of anchors is a very simple process, and the importations heretofore have been quite small. The value of the importations for consumption for the year 1917 was only $2,611; for 1918 the value was $1,616; for 1919, $7,216; for 1920, $3,127; for 1921, $2,036. There were, however, additional importations for vessel supplies and for the repair of vessels, the amount of which was somewhat in excess of the importations for consumption. No exports are recorded as to anchors.

The provision relating to forgings covers a vast number of articles. Some of them are of very common use. The importations are quite small, as appears from page 415 of the Summary of Tariff Information, whereas the production and exports are very great.

In view of these facts, I do not believe the comparatively high rate proposed by the committee is justified. I submit the amendment already stated, and ask for a vote on it.

Mr. MCCUMBER. Will the Senator repeat the amendment, please?

Mr. ROBINSON. Where the committee amendment proposes to insert "30" I propose an amendment reducing it to "15," which, I think, is entirely adequate, in view of the fact that the rate is only 12 per cent at present, and the production and exports upon the whole item are many, many times, both in quantity and value, the amount of the imports.

Mr. MCCUMBER. Mr. President, I do not recall that any evidence was submitted to the committee upon that amendment. We seem simply to have changed the House rate of 25 per cent ad valorem on the American valuation to about its equivalent on the foreign valuation. I think the 25 per cent on the foreign valuation is sufficient, but under present conditions I do not think that 12 per cent is sufficient.

Mr. ROBINSON. Mr. President, 12 per cent is the present rate.

Mr. MCCUMBER. Yes.

Mr. ROBINSON. And that, of course, is on the foreign valuation.

Mr. MCCUMBER. Yes.

Mr. ROBINSON. The rate, even as the committee now propose to reduce it, would still be more than twice the present rate. While of course I should prefer the amendment which the committee now propose to make to the one that the committee reported, I still think that that would leave the rate too high; and I shall ask for a vote on my amendment, 15 per cent.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Arkansas to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. MCCUMBER. I now ask, unless the Senator wishes first to make some other motion, that the committee amendment be rejected.

Mr. ROBINSON. Will the Senator accept an amendment of 20 per cent? I propose to strike out "30" and insert in lieu thereof "20."

Mr. MCCUMBER. That would leave it out of proportion to steel and other articles, and it would require an adjustment of others. I think that "25" would leave the relation about right to the prices of steel.

Mr. ROBINSON. Mr. President, my attention has been called to the fact that some of the Senators think that 20 per cent would occasion a disproportion with reference to the rate as applicable to forgings, but an examination of the facts as submitted by the Tariff Commission does not appear to me to justify that conclusion.

I ask leave to put into the RECORD the paragraphs on pages 413 and 414, showing the uses and the character of articles that are embraced within forgings, the quantity of production, the value of exports, and also the amount and value of imports for the various years. I ask that that be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it will be included in the RECORD.

The matter referred to is as follows:

FORGINGS.

(See Survey C–5.)

Description and uses: Forgings are metals which have undergone the process of hammering or pressing into special shapes while hot. Originally forging was solely a hammering process, but with large masses to be treated, pressing has come into use, especially for making heavy forgings of steel.

Many small articles of common use, such as balls, screws, rivet blanks, nuts, nails, etc., are forged by machinery. Many articles of intricate patterns are drop-forged, i. e., a heated piece of metal is put on a lower die placed on the anvil of a drop hammer which, falling from a height, carries the upper die and stamps the plastic metal into shape. Such drop forgings are largely used in motor vehicles for levers, treadles, connecting rods, and the like.

The "finishing process" consists in annealing or tempering the forged material and then machining it.

Production: Forgings represent a vast variety of articles. According to the American Metal Market the country's output of forged work done in rolling mills and steel works amounted to 1,295,566 gross tons in 1918 and to 534,346 gross tons in 1919. This product involves such items as anchors, armor plate, axles, eyebars, gun carriages, etc

Imports of ordinary forged iron and steel, i. e., not finished or advanced beyond the forging process, are not large. In 1917 they amounted to only $37,302. Later statistics follow:

Calendar year.	Quantity.	Value.	Duty.	Ad valorem rate.
	Pounds.			*Per cent.*
1918		$394,566	$47,348	12
1919	351,045	51,312	6,157	12
1920	184,096	35,103	4,212	12
1921 (9 months)	141,364	23,618		

In addition to these imports other forgings for the construction and equipment of vessels, for the United States Government and for diplomatic officers came into the country free of duty. In 1919, 485,777 pounds, valued at $79,152, were imported for the construction and equipment of vessels; 6,583,124 pounds, valued at $754,706, for the Government of the United States; and in 1918, 43,383,685 pounds, valued at $2,576,831, for diplomatic officers.

Exports: Exports since 1917, by calendar years, have been as follows: 1918, $27,679,680; 1919, $1,881,814; 1920, $1,833,925; 1921 (9 months), $358,299. Some of the important countries receiving this exported material are Canada, France, the United Kingdom, Japan, Italy, Spain, and Mexico.

Mr. ROBINSON. I also move to amend by striking out "30" and inserting "20." I shall not ask for a record vote.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Arkansas to the committee amendment to strike out "30 per cent" and to insert "20 per cent."

The amendment to the amendment was rejected.

The PRESIDING OFFICER. Now, the question is upon agreeing to the committee amendment.

Mr. McCUMBER. I ask that the Senate reject the committee amendment.

Mr. JONES of New Mexico. I would like to make the suggestion that by disagreeing to the committee amendment you agree to the House rate, and that would leave nothing in conference by which you can adjust any of these rates if it is thought best to do so.

Mr. SMOOT. That would be true no matter what the valuation was.

Mr. JONES of New Mexico. That would be true regardless of the valuation, and it seems to me that you are apt to tie your hands when you may not want that done, when you begin to consider these rates in relation to other rates in the schedules. I simply make the suggestion for whatever it is worth. It seems to me that by doing this you would be absolutely tying up the matter in conference, and it would prevent any readjustment of rates with other items in the schedule.

Mr. McCUMBER. I do not agree that it would be tied up in conference, even though the figures appear the same, because one is based upon the American valuation and the other is based upon the foreign valuation. Twenty-five per cent on the American valuation is considerably higher than 25 per cent on the foreign valuation. So the minds of the two Houses have not met, although the figures are the same.

Mr. JONES of New Mexico. If that is the correct view of it, of course, it throws these figures open to adjustment in conference.

Mr. McCUMBER. I really think they would be. Of course, if we got it as low as either House wanted it, I do not think the conferees could go any lower, and if we went as high as either fixed it, I do not think we could go any higher, but within those limits there would be no question in my mind but that the conferees could adjust the rates irrespective of the fact that the figures are the same.

Mr. JONES of New Mexico. If the Senator is sure of that, then, of course, the suggestion I have made is of no importance.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was rejected.

Mr. JONES of Washington. Mr. President, I want to ask a question. Are we to understand that when this bill goes to conference all of these rates can be changed by the conferees, no matter whether the Senate has acted upon them or not?

Mr. SMOOT. No.

Mr. JONES of Washington. I gathered that from what the chairman of the committee stated. The House rate is based on one valuation and the Senate rate on another, and when they get in conference the minds of the two Houses have not met on them, and the conferees could change the rates, according to his statement. If that is the case, we can not know what will come out of the conference. It seems to me that should not be the situation.

Mr. McCUMBER. We can not change that situation. When the House says that it will levy a rate upon a certain valuation and the Senate says that it will levy a rate upon a different valuation the two Houses have not agreed, even though they have fixed on the same figures, and there can be no question but that the minds of the two Houses must agree on the final result of their action.

Mr. JONES of Washington. I understand we have just receded from a committee amendment and left the House language in this paragraph as it passed the House. There is nothing in that paragraph to indicate that the rate is based upon any different valuation from that which the Senate considered.

Mr. McCUMBER. But elsewhere in the bill there is.

Mr. JONES of Washington. That may be true; but I do not see how the conferees can go back and change the rate fixed in that paragraph. I am satisfied it would be subject to a point of order, at least in the House, if it went back after they attempted to do that.

Mr. McCUMBER. That is a parliamentary question, of course, which is going to arise. I have my view, and I have submitted it to our parliamentary experts upon this side of the Chamber, and they agree with me that the minds of the two Houses must meet. As long as there is the difference between the two Houses, of course there is something in conference between the two. Let us suppose, for instance, that the foreign price of an article is $1 and the American price of the same article is $2. The House says, "We will levy a duty of 25 per cent," which will be based upon the $2. That is what the House has done. The Senate says, "We will levy a rate of 25 per cent"; but it will be based upon the $1, which is the foreign valuation. It takes an awful stretch of imagination to say that the two Houses have agreed upon what the rate of duty shall be; and, after all, the thing we are getting at is not so much the rate, but what duty will be levied to bring an article into the United States. If it is clear that it is $1 in Europe, the place of exportation, and $2 here, the minds of the two Houses have not met.

But we might discuss that from now until doomsday and perhaps would not get any further along. Sooner or later we shall have to settle it, but we can not settle it now.

Mr. ROBINSON. That is entirely correct. Any discussion of the question now is more or less academic. Nevertheless, it has a practical importance. When this bill passes the items which will go to conference will be the Senate amendments striking out the American valuation and inserting the foreign valuation, and no items as to simple rates of duty which the Senate has not amended will be before the conference, in my opinion.

If it is desirable to get provisions in conference as to rates of duty, it will be necessary for the Senate to make amendments to the House provisions touching the rates of duty. I think the Senator from Washington is correct about that, because we will first have in conference the question of the American valuation and the foreign valuation. One or the other will be agreed to. Whichever is agreed to will result in bringing the minds of the two Houses together, and there will exist no difference between them as to rates of duty concerning which no amendments have been made in the Senate.

Mr. JONES of Washington. For instance, there is no amendment made in paragraph 352. If we accept it just as it reads, it does seem to me that the conference committee could not rewrite those rates.

Mr. ROBINSON. But the Senator, of course, understands that after we have disposed of committee amendments the paragraph will be subject to amendments offered from the floor.

Mr. JONES of Washington. But I am assuming that it will go through just as it reads here.

Mr. ROBINSON. I think the Senator from Washington probably will be held to be correct, although I believe a further discussion of the matter would be academic at this time.

Mr. McCUMBER. If I may make a suggestion to the Senator, I think the very first thing to be decided in the conference before we go one step further is as to whether we will adopt the American valuation of the House or the foreign valuation of the Senate. If that is decided in favor of the foreign valuation as fixed by the Senate, then all our rates, so far as we are concerned, will have been fixed upon that basis, even though the House fixed those rates upon the other valuation. But until that question arises we shall not have to cross the bridge, and I sincerely hope and really expect that we shall not have to cross it.

Mr. FLETCHER. Suppose in the conference the House recedes and accepts the Senate's foreign valuation, does the Senator believe it will then be entirely competent for the conferees, after all the amendments have been made in the Senate, and where the Senate committee's proposals have been reduced, to open up that whole question, and either raise or lower the duties, irrespective of the action the Senate has taken?

Mr. McCUMBER. Of course, I can not say what the contention of the House will be, but if it accepts the foreign valuation, then our rates are all fixed upon that. I concede that the House may say, "Yes; while we fixed those rates at that time you have made those rates much less by adopting that valuation"; but when they agree to that they agree to those rates upon that valuation. At least, I hope they will take that view, and I think we will get over that difficulty.

Mr. ROBINSON. But that is a change which will be accomplished by modifying other language than the language immediately imposing the rates. Where a bill passes the House of Representatives, and the Senate does not modify a paragraph, by the unanimous decision of both Houses it is not subject to change in conference. But so far as I am concerned, I do not care to discuss it further. If anyone else desires to, he is at liberty to do so.

The PRESIDING OFFICER. The Secretary will state the next amendment.

The next amendment was, in paragraph 320, page 61, line 18, to strike out "plates" and insert the word "plates" with a comma.

The amendment was agreed to.

The next amendment was, in line 20, to strike out "30" and insert in lieu thereof "45," so as to make the paragraph read:

PAR. 320. Electric storage batteries and parts thereof, storage-battery plates, and storage-battery plate material, wholly or partly manufactured, all the foregoing not specially provided for, 45 per centum ad valorem.

Mr. SIMMONS. Mr. President, I will detain the Senate for only a few minutes on this matter, although it seems to be a matter of considerable importance.

These electric storage batteries and parts are very extensively used in this country now as the result largely of the introduction of the automobile. I read from the Tariff Commission Summary:

In storage batteries the electrodes are commonly lead plates surrounded by dilute sulphuric acid. During the discharge lead sulphate is formed on the plates, the action being similar to that of the primary battery. The action of the storage battery is, however, reversible, since, by passing a current through the battery in the opposite direction, the plates are restored to their original state, and are again capable of delivering a current.

* * * The automobile industry is a large user of storage batteries. The manufacture of plates and connections for storage batteries has become a very important outlet for lead.

Outside of the acid, lead is almost the only material in these batteries.

In 1919 the production of storage batteries was valued at $56,000,000, in round figures, and of parts for storage batteries at $3,000,000, about $60.000,000 in all. The corresponding figures for 1914 were $10,000,000 and $2,000,000, so that during the period from 1914 up to the present time this industry has multiplied five times under the present rate of duty.

As to imports, the Tariff Commission report says there are none recorded. On the other hand, the exports of these batteries for recent calendar years were, in round numbers:

1918	$3,000,000
1919	6,000,000
1920	6,333,000

In the nine months of 1921, $3,267,000. These exports were chiefly to Great Britain, Argentina, Australia, and Cuba.

That is the situation with reference to this product, upon which the committee proposes to put a duty of 25 per cent. I am unable, myself, to understand upon what principle that duty is proposed, and I will ask the Senator from North Dakota if he will enlighten the Senate.

Mr. McCUMBER. Mr. President, I will give the Senator the principle on which the duty is imposed. It will be noticed that in the lead schedule we have levied a duty of 2⅛ cents a pound on lead. Lead sells for a little over 4 cents a pound. Therefore, our duty upon the lead is about 50 per cent. These batteries are almost wholly composed of lead, perhaps 90 per cent of their content being lead. No matter what we put in as a rate on lead, we ought to have a duty upon the battery that would be as high as the duty upon the lead of which it is composed, otherwise they could import the lead in the shape of a battery and get it in cheaper than the lead itself.

I think we have the rate too high, and I am going to ask that it may be reduced from 45 to 40 per cent, as I think that is adequate, as I have looked over the figures. In some of these instances, the pressure being pretty hard at the time to hold the House rates, they were converted into about an equivalent on the foreign valuation, and that is what was done in this case. But I think we can reduce this rate 5 per cent, and in that way we shall get about the proper relation between the two.

Mr. SIMMONS. Let me ask the Senator if he does not think his calculation is a little faulty. I understand him to say that lead is worth about 4½ cents a pound.

Mr. McCUMBER. A little over 4 cents.

Mr. SIMMONS. And he has put a duty of 2½ cents a pound on lead.

Mr. McCUMBER. Two and one-eighth cents a pound.

Mr. SIMMONS. Does the Senator know how many pounds of lead there are in one of these storage batteries?

Mr. McCUMBER. No; but I understand about four-fifths of the cost of it is in the lead. I think very much more than four-fifths of it is lead. It is nearly all lead.

Mr. SIMMONS. I would not suppose that the lead in it amounted to very many pounds. It is not solid lead.

Mr. McCUMBER. The cells and metallic parts are of lead. There is nothing but lead in it.

Mr. SIMMONS. There is the top part and the bottom part, and then there are the little pillars connecting the two.

Mr. McCUMBER. But that is the box containing the battery, and we are giving practically only an ad valorem rate, not on the weight of it. The whole of the battery itself, the battery proper, is composed of lead.

Mr. SIMMONS. But let us work it out. I had occasion to buy one of these ordinary batteries the other day. It is not more than a square foot in size.

Mr. McCUMBER. But if the Senator should take a big electric battery, he would find it very much heavier. It would take several men to lift such a battery.

Mr. SIMMONS. I am talking about the small size, such as we use in automobiles. It certainly would not weigh more than 20 pounds, but let us assume that it weighs 25 pounds.

Mr. McCUMBER. I think in a small car it would weigh at least 50 pounds, but that does not make any difference.

Mr. SIMMONS. Very well; assume that it weighs 50 pounds. The lead in it at 2½ cents a pound would be $2.25. The little batteries I speak about sell in the city of Washington for thirty-odd dollars. The Senator is proposing to put 45 per cent upon that thirty-odd dollars as a compensatory duty for 50 pounds of lead worth only $2. I think there is wherein the position of the Senator is wrong. I understand the Senator says this is put on as a compensatory duty, and there is no other justification for it.

Mr. McCUMBER. I did not say there is no other justification; but I am speaking now of the compensatory part.

Mr. SIMMONS. Assuming that there are 50 pounds of lead in it, and I do not think there is half of that in the smaller ones that are selling for thirty-odd dollars, there we have a total value of $2.25. Now, because of the 2½ cents a pound on that 50 pounds of lead, the Senator proposes 45 per cent on a battery that sells for $30.

Mr. McCUMBER. I do not know what they may sell for. I think a little one like that would be much less; but they may sell, as we know, for 10,000 per cent more than they ought to sell for. I can not say how that would be. I am endeavoring to get an ad valorem rate that will just about equal the lead content upon the value basis.

Mr. SIMMONS. But the Senator's ad valorem rate here applies to the commercial value of the battery.

Mr. McCUMBER. Of course, there is a great deal of work to make one of them, independent of the lead content, but I am taking the lead into consideration, the labor into consideration, and the difference in the cost of manufacture into consideration. Taking all of the elements that make up the difference between the cost at home and abroad, which, first, is the lead; second, the labor; and, third, other matters that enter into it, like transportation, altogether I think they should have about 40 per cent ad valorem.

Mr. SIMMONS. There are none of these things that are imported into this country except possibly some lead. The Senator proposes to give a duty on lead upon the theory that there is some imported into this country. My understanding is there is no justification shown for 45 per cent, except for the purpose of compensating for the duty of 2½ cents a pound on the lead. Two and one-fourth cents a pound on 50 pounds of lead would be a little over $1, and 45 per cent upon the price of one of these instruments would be $10 or $15. Of course, I know nothing about the factory price. I am only speaking about the retail price. I was trying to find a place where I could buy one of these batteries the other day cheaply. I found a place where they said they would sell me one of these little Ford batteries for $22, but for a 7-passenger car they were about $30, and at some other places they were between $35 and $40.

Mr. McCUMBER. I think this statement will explain it. While, of course, we include electric storage batteries on the assumption that there may be conditions in which the entire battery would be imported, as a matter of fact the batteries complete are not imported at all on account of the breakable character of the glass, plates, and so forth, but they come in

entirely in the plates and parts which are put together here. Those are exclusively lead and it is almost like selling lead in a certain form in another way.

Mr. SIMMONS. I am quite sure if the Senator would investigate this from the standpoint of the compensatory duty he would find the duty he proposes is too high. However, I do not care to prolong the discussion further.

Mr. McCUMBER. In the tariff hearings there appears a statement which I wish to read. It is as follows:

5. Lead and lead oxide constitute over 98 per cent of a storage battery plate. Pig lead for the 14 consecutive years prior to the World War averaged 3.17 cents per pound in Europe, while for the same period the United States price averaged 4.54 cents per pound, or 43 per cent higher in the United States than in Europe. Lead oxide, having a greater labor content, runs at least 48 per cent higher in the United States than in Europe.

That is why 45 per cent was asked, but I think we can safely reduce it to 40 per cent.

Mr. SIMMONS. I think the Senator could safely reduce it much more than that.

Mr. McCUMBER. I doubt it. I think the lead could come in that form under a less rate of duty.

Mr. SMOOT. Mr. President, the Senator will notice that not only the Payne-Aldrich duty but the existing duty was imposed according to the component material of chief value, and, therefore, it always was on the basis of the lead, whether imported in parts or whether it was imported as a battery.

Mr. SIMMONS. Has the Senator any information as to what is the value of the lead parts that might be imported?

Mr. SMOOT. Yes. Ninety-eight per cent of all the batteries would be imported in the shape of lead at 40 per cent ad valorem.

Mr. SIMMONS. Does the Senator mean lead manufactured?

Mr. SMOOT. In the form of batteries. They are of lead parts. Then the lead oxide is used in the battery, too, and of course we increase the lead oxide rate on account of the increase in the rate on the lead.

Mr. SIMMONS. Can the Senator furnish any information at all outside of his statement that there are any imports of this manipulated lead made in the form of these batteries? It is stated, I understand, that there are no imports of record.

Mr. SMOOT. They have not kept the statistics. They could not keep them because the articles came in according to the component material of chief value. There are no statistics kept.

Mr. SIMMONS. Mr. President, I move to amend the committee amendment by reducing the rate to 15 per cent.

The ASSISTANT SECRETARY. In line 20, in the committee amendment, the Senator from North Carolina proposes to amend by striking out the numerals "45" and inserting in lieu thereof the numerals "15."

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question is on the amendment of the Senator from North Dakota to the committee amendment proposing to strike out "45" and insert "40."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The VICE PRESIDENT. The next amendment will be stated.

The ASSISTANT SECRETARY. The next amendment has been agreed to on May 26, page 62, line 1, railway fishplates——

Mr. ROBINSON. Was paragraph 321 disposed of?

Mr. SMOOT. Yes; it was agreed to.

Mr. McCUMBER. Mr. President, I was going to ask that we return to page 33 and take up magnesite, as the junior Senator from Washington [Mr. POINDEXTER] is here now. It was passed over until he might be present.

Mr. POINDEXTER. Assuming that consent is granted to take up that paragraph as asked by the Senator from North Dakota, I am going to move to strike out the rates proposed by the committee in section 204a and to insert in place of them the rates fixed by the House and carried in the House bill on these substances, although they are carried in a different paragraph. I submit the following amendment.

The VICE PRESIDENT. The Secretary will report the amendment.

The READING CLERK. On page 33, paragraph 204a, line 1, the Senator from Washington proposes to strike out "five-sixteenths" and insert in lieu thereof "one-half."

Mr. POINDEXTER. That is on crude magnesite. It amounts to a rate, if the amendment I propose is adopted, of $10 per short ton on crude magnesite in the place of a rate of $6.25 per short ton as proposed by the committee amendment.

My amendment corresponds with the rate fixed in the House bill. It also corresponds with the rate that was at one time favorably reported by the Senate Finance Committee in a special bill covering crude and dead-burned magnesite.

My purpose in proposing the amendment is to obtain, if possible, by the favorable action of the Senate, a sufficient rate upon crude magnesite and also upon dead-burned magnesite, as I shall propose by an amendment to follow this one, to protect the industry.

The rates provided by the Senate committee are not sufficient to afford protection to the industry. Prior to the entry of the United States into the European war, practically all the magnesite consumed in this country, with such exceptions as scarcely to be worth noticing, was imported from foreign countries—most of it from Austria, some of it from Greece, a little of it from Canada, and a still smaller quantity from South America. During the war great deposits of magnesite were discovered in this country, principally in the State of Washington. They were developed very successfully, and the entire American trade was supplied from domestic sources during the war because foreign importations were automatically cut off by the conditions of the war.

Magnesite is an earthy deposit, something like limestone. In fact, the great deposits in the State of Washington at one time were supposed to be marble; they looked like marble and were mined for marble. An attempt was made to use them for the purposes for which marble is used; but when the exigencies of the war cut off our supply of magnesite, inquiries were made of the Geological Survey as to possible sources of supply in the United States, and reports were found referring to the magnesite in the State of Washington. Upon examination it was discovered that this substance was not marble at all, but was a very high grade of magnesite and that it existed in very large quantities. It is estimated that there is in sight sufficient magnesite in those deposits, which constitute mountains of magnesite, to supply the trade of this country for 50 years at the present rate of consumption.

This substance is used for various purposes, but the chief purpose for which the form in which I am interested and to which the amendment which I propose to offer refers, is used in making a specially high grade fire brick, with very high refractory qualities, a great quantity of which is used in the lining of smelters, electric furnaces, iron furnaces, and copper smelters because of its powers of resistance to heat. The principal market for magnesite for that purpose is in the vicinity of Pittsburgh, the center of the great steel industry of the country. Some 40 per cent of the consumption is in that district; 20 per cent is in the territory west of Chicago; 20 per cent is on the Atlantic coast; and the remainder in the intervening territory.

In order to compete upon equal terms with the Austrian magnesite it is necessary for us to get into the Pittsburgh market; and if we get a rate of three-fourths of a cent a pound, which my amendment proposes, it will enable us to get into the Pittsburgh market upon equal terms with the importers of magnesite from Austria, those importers really being the great steel industry itself, which has promoted a company which mines magnesite in Austria and gets the benefit of labor at 60 cents a day in gold as compared with wages of $4.50 a day in gold, which are the ruling wages in the mines of the West.

If this industry is to be allowed to exist it is necessary to have an adequate tariff duty to put it upon equal competing conditions with the foreign article in the principal markets of the country. Such a duty not only will sustain and build up that industry, giving employment to thousands of men—and now it is closed down like a dead city—but it will give to this country all the incidental benefits that are appurtenant to every great industry, although not immediately connected with it.

All of the supplies that are necessary to carry on this work will find a market there if this industry can live. Consequently, it will benefit the people who furnish those supplies and the laborers who are engaged in producing them. If this industry is allowed to live by giving it an adequate tariff rate, there will be a market in the operation of these mines and of the machinery connected with them for large quantities of coal. That will increase the business of coal miners; that will make wages for the people who are employed in the coal mines in distant States, who may not know that they are affected in any way by or derive benefit from this industry, but nevertheless they do. Electrical supplies and electrical machinery will have to be used; men will have to be employed to manufacture them; and they will get the benefit of this industry if it is a living industry and a going concern, instead of one, as it was before the war discovered it and gave it an opportunity to get upon its feet, and converted it from a condition of quiet and inactivity into a condition where hundreds and thousands of men are employed at good wages.

Mr. HITCHCOCK. Mr. President, will the Senator yield to me?

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Nebraska?

Mr. POINDEXTER. I yield.

Mr. HITCHCOCK. Has the Senator from Washington the statistics of production for the year 1921?

Mr. POINDEXTER. There was no production at all in the year 1921 so far as Washington is concerned, and, so far as dead-burned magnesite is concerned, the production is still closed down.

Mr. HITCHCOCK. The paragraph also refers to crude magnesite, does it not?

Mr. POINDEXTER. Yes; it covers crude magnesite.

Mr. HITCHCOCK. Has production ceased now?

Mr. POINDEXTER. Production has entirely ceased in all of the mines of Washington. There is a small quantity of crude magnesite produced in California, which is converted into calcined magnesite and used for plastic purposes, so called, in building. That is another use to which a certain form of magnesite is put.

Mr. HITCHCOCK. I notice the figures for 1920 do not indicate a bad condition. The production for that year was 275,000 tons and the imports were 37,000, which would indicate that the American supply was practically covering the market. I have not the figures for 1921; and I wondered whether or not the Senator himself might have them.

Mr. POINDEXTER. I have the figures here. They are as follows:

Imports of crude magnesite are from Canada, Austria-Hungary, Greece, Mexico, and Venezuela. Prior to the war they were fairly constant at about 16,000 tons annually, but in 1917 they reached a maximum of 89,646 tons, valued at $748,951. Imports of calcined magnesite prior to the war reached a maximum of 172,661 tons, valued at $1,731,443. They decreased to only 4,724 tons in 1917. Statistics since 1917 are as follows:

Calendar year.	Quantity.	Value.	Unit value.
Crude magnesite:	*Tons.*		
1918	4,319	$71,871	$16.64
1919	5,697	103,311	18.13
1920	29,955	406,204	13.56
1921 (9 months)	37,789	412,930	10.93
Calcined magnesite:			
1918	17,539	855,384	48.77
1919	8,456	270,721	32.02
1920	13,196	373,165	28.28
1921 (9 months)	4,697	179,561	38.23

Mr. HITCHCOCK. I think perhaps I made a mistake in attributing the 37,000 to 1920, whereas they should have been attributed to the nine months of 1921.

Mr. POINDEXTER. Yes; to nine months in 1921.

Mr. HITCHCOCK. What was the production in this country during the period when we had 37,000 tons of imports?

Mr. POINDEXTER. I do not know that I can give the production. It was very small. There was no production at all of dead-burned magnesite, which is used for fire brick in the steel industry. That business was closed down; it existed nowhere in this country.

Mr. HITCHCOCK. That was not due to the imports, was it? The closing down was due to the general depression that afflicted the whole country.

Mr. POINDEXTER. It was due to some extent, of course, to the general depression of the steel industry, which curtailed the consumption of dead-burned magnesite; but the industry was closed down because of the impossibility of competing with the Austrian product.

Mr. HITCHCOCK. That would hardly have closed down mines turning out 275,000 tons in 1920 when the imports in 1921 were only 37,000 tons. Certainly that volume of importations would not have closed down an industry of that great extent.

Mr. POINDEXTER. It did close it down, and it is closed down now.

Mr. HITCHCOCK. That must have been due to depression; it could not have been due to the imports.

Mr. ROBINSON Mr. President, will the Senator from Washington yield to me for a question?

Mr. POINDEXTER. I yield.

Mr. ROBINSON. What is the value per pound approximately of crude magnesite?

Mr. POINDEXTER. The cost of it at the mine in Washington is $20 per ton.

Mr. ROBINSON. Twenty dollars a ton?

Mr. POINDEXTER. Yes; $20 a ton.

Mr. ROBINSON. That is about a cent a pound, then?

Mr. POINDEXTER. That is on a basis of 2,000 pounds to the ton; that is, the dead-burned magnesite, which requires about 3 tons of the crude material. All of the ore is not magnesite; it has to be sorted.

Mr. ROBINSON. What would be the approximate ad valorem equivalent of five-eighths cent a pound on crude magnesite?

Mr. POINDEXTER. The ad valorem equivalent, if you take the import value at the place of import, is about 60 per cent.

Mr. FLETCHER. As I figure it, five-sixteenths of a cent a pound on the crude magnesite would be about $7 a ton?

Mr. WILLIAMS. I will ask the Senator from Washington if he has any figures as to exports?

Mr. POINDEXTER. I have no figures as to exports, because there are practically no exports from this country.

Mr. ROBINSON. Under the amendment raising the duty to five-eighths of a cent a pound, the Senator from Washington states that the ad valorem equivalent is about 60 per cent.

Mr. FLETCHER. My information is that a duty of five-sixteenths of a cent a pound on the crude would amount to about $7 per ton, and a duty of four-tenths of a cent a pound on the dead burned magnesite would amount to about $8.96 per ton on the dead burned grade.

Mr. POINDEXTER. It would amount to about $6.25 on the crude and $8 on the dead burned on the short ton.

Mr. FLETCHER. There has heretofore been no duty on raw magnesite.

Mr. POINDEXTER. No; it has been on the free list. The only way that this industry ever was enabled to start was on account of the war cutting off foreign importations.

Mr. JONES of Washington. Mr. President——

Mr. POINDEXTER. I yield to my colleague.

Mr. JONES of Washington. I was just going to call attention to the table on page 1077 of the hearings, on magnesite, Exhibit E, purporting to come from "The Mineral Resources of the United States." It confirms what my colleague said; it gives the domestic production and the imports up to 1920, and then there is what appears to be a note, which says:

1921: During the first six months of 1921 the mines in the United States have been practically idle, while the imports from Austria are about 7,000 to 9,000 tons per month.

Mr. POINDEXTER. Mr. President, the only pressure that I know of against the rates that we are asking for, which I believe to be fairly adequate rates, comes from the consumers of magnesite brick, as was to be expected. They are the steel industry, and you can imagine the power that they have. The best information we have is that the rate that is proposed in my amendment—which, I repeat, is the House rate, and I should also like to emphasize that it is the same rate that was once favorably reported by the Finance Committee of the Senate in a special bill about a year ago, and then recalled—will have the effect, even if the entire tariff is added to the cost of the magnesite brick used in the steel industry, of increasing the cost 3½ cents on a ton of steel. That is the only result of it; but, as a matter of fact, everybody knows that the entire amount of the tariff is not added to the cost of the product. There is no doubt that it does increase the cost in many instances, perhaps in most instances, but it is very seldom, if ever, that the entire tariff rate is added to the cost.

It could not be the case here, because there is competition. If this industry is developed and allowed to have an opportunity to stand on its feet and improve its methods of production, the cost of production possibly could be decreased; and in time to come, under the machinery provided in this bill, if it should be found after they have had an opportunity to establish themselves that the rate should be reduced there would not be any objection to reducing it. What they are asking for now is an opportunity to live, an opportunity to carry on this industry long enough to introduce the most improved methods by which they can produce this material and put it on the market.

There is one other benefit to the country in which everybody is interested that will come from preserving this industry that I have not mentioned, and that is the business it will give to the railroads of the country. It will take the business away from foreign ships plying between the port which is very near to the Austrian mines and the United States and give it to our railroads, which carry it from the western mines to Chicago and Pittsburgh and the other markets, the freight amounting to some $3,000,000 a year. It will help to sustain these great transportation systems, and go toward making it possible to reduce freight rates in general.

My theory of a protective tariff—and I do not want to discuss it in general—is that in order to justify it at all it must be of uniform application. You can not justify a protective tariff as a special favor to one industry.

The only way in which it can be justified at all is as a public benefit. The only way in which it can be a public benefit is to give everybody, regardless of his stature, the size of his

business, or his political or personal influence, the benefit of this principle; and that is all that we are asking.

I am not captious with the committee. The committee has allowed some protection. It has allowed rates that may be considered substantial; but the statistics to which I will call attention in detail very briefly show that the rate allowed by the committee will be of no benefit at all, because it will not enable the American product to get into the chief American market. Unless you make the rate high enough to put it at least upon equal competitive conditions with the foreign importations, you might as well not have a rate at all.

Mr. HITCHCOCK. Mr. President, the Senator states that the American market is in the neighborhood of Pittsburgh.

Mr. POINDEXTER. That is the principal American market.

Mr. HITCHCOCK. Then let me ask the Senator where this 275,000 tons went in 1920. Did that go from the Senator's State to Pennsylvania?

Mr. POINDEXTER. What 275,000 tons does the Senator refer to?

Mr. HITCHCOCK. The production in the United States in 1920 was 275,000 tons.

Mr. POINDEXTER. In 1920 the foreign mines had not come into full operation again; and, as I stated before, the figures which the Senator has there relate very largely to calcined magnesite, used for building purposes, for which the principal market is in Chicago.

Mr. HITCHCOCK. What was the production of the magnesite under consideration in 1920?

Mr. POINDEXTER. In 1920 there was an increase of 275,000 tons.

Mr. JONES of Washington. Mr. President, my colleague will find on page 1078 of the hearings that the total domestic production of crude magnesite in 1920 was 303,767 tons, of which the Northwest Magnesite Co., which is in our State, produced 141,817 tons.

Mr. HITCHCOCK. What I am asking is, where did that go?

Mr. POINDEXTER. It went all over the country, and a part of it went to Pittsburgh, because, as I stated a while ago, the foreign industry was not reestablished at that time.

Mr. HITCHCOCK. So that there will be no increase in the transportation of magnesite over what it has been, because at that time the imports amounted to only 20,000 or 30,000 tons, and the production was approximately ten times as large.

Mr. POINDEXTER. We would be perfectly satisfied, and the country would be very greatly benefited, even though there should be no increase, if we could go back to the conditions that existed during the war and immediately following the war. Then we had the American industry; but there will be an increase, of course, with the increase of industry in general.

Mr. JONES of Washington. Our mine is closed now. This mine that produced 140,000 tons in 1920 is now absolutely closed.

Mr. POINDEXTER. Absolutely closed. I wish the Senator from Nebraska would go there and see the dead village that grew up around this industry, around the mills, and around the mines, closed down, with nobody there but caretakers, and, of course, producing nothing.

Mr. HITCHCOCK. Of course, the copper mines have been closed, too, for nearly a year, but that was not on account of the tariff. These productive enterprises have been closed on account of the depression, which is not only national but is world-wide, and they certainly could not have been closed by reason of the introduction of 20,000 or 30,000 tons from abroad; and that was all that was imported.

Mr. POINDEXTER. There was a great deal more than that imported in 1921. We have not the figures for the closing months of 1921. The amount imported is constantly increasing, and all that is consumed will be imported, because the domestic product can not compete with it.

Mr. JONES of Washington. The statement I read a moment ago shows that from Austria we imported in 1921 from seven to nine thousand tons a month, which would be over 100,000 tons a year.

Mr. HITCHCOCK. That was in 1921?

Mr. JONES of Washington. Nineteen hundred and twenty-one.

Mr. HITCHCOCK. The figures given for the first nine months are 37,000 tons from every place. Of course, that could not have destroyed an industry that was producing two or three hundred thousand tons.

Mr. JONES of Washington. I do not know what figures the Senator has.

Mr. HITCHCOCK. I have the Tariff Commission figures.

Mr. JONES of Washington. I read here from what purports to come from "The Mineral Resources of the United States, 1921, Part II," and it has the following note:

1921: During the first six months of 1921 the mines in the United States have been practically idle, while the imports from Austria are about 7,000 to 9,000 tons per month.

Which would be at the rate of over 100,000 tons a year.

Mr. HITCHCOCK. Those figures do not correspond with the figures given by the Senator's colleague, nor with the figures given in the Tariff Information Summary. I suppose these are official.

Mr. POINDEXTER. Mr. President, I think there is no discrepancy between those figures. The figures that I gave I read from the Summary of Tariff Information for 1921.

Mr. HITCHCOCK. They are undoubtedly correct.

Mr. POINDEXTER. Those were the figures that I gave. The fact remains that the steel industry is going on consuming large quantities of magnesite, that the American mines are closed down, producing nothing at all, and that the concerns engaged in the steel industry are obtaining their entire supply from abroad. The exact quantities that they are obtaining at the present time, except for the figures given by my colleague, are not obtainable, because it is difficult to get these statistics strictly up to date. The figures for the first nine months of 1921 are the latest figures that are given in the Summary of Tariff Information; but when you have personal knowledge of the actual situation, the exact figures and quantities become immaterial, when all that is consumed is being imported. The only mines that are in operation in this country, and those only to a very limited extent, are the mines in California that are producing calcined magnesite to be used in building, which is here also asking for an adequate tariff rate for its protection.

We have been partly through the iron and steel schedules in this bill. I have not had an opportunity to examine them. I have heard them debated here on the floor. I heard them challenged as being high. They are high. I do not know whether they are too high or not; but I notice that the Finance Committee in its report has very generally increased the rates in the iron and steel schedule over those provided in the House. They receded from some of these amendments and went back to the House rate, but in few if any cases did they reduce the House rate.

That industry, which is getting the benefit of an adequate protection—an unquestionably adequate rate, said in many instances to be more than adequate—is the only industry that is seriously objecting to an adequate rate of duty upon magnesite, the so-called raw material which they consume in their industry, notwithstanding the fact that the steel industry has attained its present proportions and its great size by reason of the enjoyment of a protective tariff.

The pre-war price of magnesite on the Atlantic seaboard was from $15 to $17, and around $20 at Pittsburgh. The Austrian magnesite producers admitted before the Finance Committee and before the Tariff Commission that their pre-war cost was only $12 f. o. b.

I have reports here from a German industrial expert, who is quoted as saying that magnesite, dead burned, sold in Germany at $8 a ton. Ours cost $20 a ton, paying the wages we do, on board the cars at the mines; and we have to pay the freight rates in order to get into the market.

Pre-war ocean freight to the Atlantic seaboard was $2 per short ton, a total of $14 on the Atlantic seaboard for the Austrian magnesite delivered there. Representatives of the Austro-American Magnesite Co. have made the statement that prior to the war their cost at the mine was $8.

The above figures show a profit on even a $15 selling price at the Atlantic seaboard. There is no doubt that Austrian magnesite can be produced at the present time at the same cost, or even lower than the pre-war cost.

So far as we know, the Austrian producers have not furnished the Finance Committee with any statements of costs, either pre-war or post-war.

Domestic costs have been furnished to the utmost detail. The books of the company have been exhibited to the Finance Committee, showing the entire operation from the beginning to the end, exactly the constituent elements of the cost of the production.

The German to whom I referred was Dr. Kurd Endel, ceramic engineer, Technical University, Berlin, who stated that dead-burned magnesite was selling in Germany in March of 1920 at 1,600 paper marks, which at that time equaled $8 per long ton of 2,240 pounds, now equivalent to about $6 at price of German marks. The Austrian magnesite at the same time was selling in this country at $20 to $24 on the Atlantic seaboard.

It will be readily seen where the profit was. It is selling in Germany at $8, is brought across with a freight charge of $2 per ton, and is sold on the Atlantic seaboard at $20 to $24. The fact of the case is, however, that this Austrian company,

I am informed, is very largely promoted by those who are interested in the steel industry in this country; consequently whatever prices they charge go to themselves. It is a matter of indifference what figures are given out.

With a $15 per ton duty, if the cost were raised to the consumer that much it would amount to $0.0375 (3¾ cents) per ton of steel. With steel selling at $40 per ton the duty would mean nine one-hundredths of 1 per cent of the selling price.

The average consumption of brick magnesite lining in an open-hearth steel furnace is about 5 pounds of dead-burned magnesite per ton of steel, so a $15 tariff per ton equals $0.0075, and multiplied by 5 equals 3¾ cents per ton of steel.

The Austrian production is practically a monopoly. The prices now being obtained by foreign producers are nearly double pre-war prices in many instances, although, as I said a moment ago, the cost of production is about the same.

A gold United States dollar is worth more in Austria to-day than it ever was, and Austrian costs are no more to-day than pre-war, and it is reported they are less.

The foreign selling price is kept only below the point at which domestic material could be delivered. It will cost the consumers but a small proportion of the duty if a sufficient rate is provided to allow the domestic industry to be rehabilitated.

The imported material is sold on the long-ton basis, or 2,240 pounds, and our figures on costs of production and delivery at consuming points are on the basis of the short net ton of 2,000 pounds; therefore, we are at a still further disadvantage of 10 per cent as against the foreign producers, as their selling price at Atlantic seaboard of $15 is for 2,240 pounds, and would make a further difference in their favor of $1.50 per ton.

These figures are important, because they relate to a long ton in Austria, while our figures relate to a short ton, which is the custom of the trade in this country.

Prof. Bailey Willis, dean, geological department, Stanford University, California, spent three months in examination of mines of Stevens County, Wash., in 1920, and reported 8,000,000 tons of commercial magnesite in sight, which would be sufficient for 25 years for total consumption.

There is a great deal more of it there than Professor Willis examined. Much of it has been discovered since. Under a $15 tariff we could not expect to furnish over one-half of the consumption, hence resources now developed would last 50 years.

Mr. FLETCHER. Is it not true that about half of that 8,000,000 tons, as estimated, is unfit for commercial use? I have some information to that effect.

Mr. POINDEXTER. One-fourth of it is not fit for commercial use, and consequently has to be sorted out. Three-fourths of it is high-grade crude magnesite, and it takes 2.2 tons of the crude magnesite to make 1 ton of the dead-burned magnesite, out of which the brick for the lining of the furnaces is made.

As to the cost of production in this country, I want to give some figures to justify the rate we are asking, calling attention, in passing, to the claim that is made by those who have made the most careful study of this matter, that even with the $15 a ton rate we can only expect to get about one-half of the market; that is, we will be upon competitive terms at Pittsburgh with the foreign producers, and at a slight disadvantage there; and all along the Atlantic seaboard east of Pittsburgh they will have a very marked advantage over the domestic producers, on account of the latter's location in the extreme western part of the country, so that there is very far from being a monopoly established. It is demonstrated very clearly that it would be impossible, even with the rate we are asking, to completely occupy the American market.

The mine having the lowest cost of production in the United States is the Northwest Magnesite property. A sworn statement of cost shows $21.09 per ton, dead burned, f. o. b. cars Chewelah, Wash., for 1920, since which time all magnesite mines have been closed. It is believed this company can produce now at $20 f. o. b. Chewelah.

It takes about 2.2 tons of sorted crude to make 1 ton dead burned. Of the crude mined about 25 per cent is eliminated as waste. The actual cost of mining 1 ton of crude sorted material is $1.13, so the actual mining of 1 ton of ground broken, before sorting out the waste, would be 85 cents per ton.

There was some question raised by one of the members of the committee as to the high cost of mining the domestic product, as claimed by the domestic producer, but that was due to a confusion of the finished dead-burned product with the original native rock they dig out. When you examine the cost of that, it seems to me they have reduced it to a very low figure—85 cents a ton for the crude material as they find it and $1.13 a ton for the product as it is sorted before it is combined in order to make 1 ton of dead burned.

I want to give the items which go to make up this cost. The total cost of producing 1 ton of dead-burned is as follows:

SORTED AND CRUSHED.

CRUDE.

Mining, crushing, electric power, superintendence, development, etc	$2.73

DEAD-BURNED.

Mining, crushing, electric power, superintendence, development, etc	6.14
Dead-burning in reduction plant	9.42
Tramway from mine to Chewelah	.93
Administration and general expense	.61
Taxes, insurance, and interest	1.33
Depreciation	1.51
Depletion	1.15
Total	21.09

They have discounted that and estimated the cost at $20 a ton.

Of the total cost in 1920 of $21.09 per ton dead-burned f. o. b. Chewelah, there was a direct labor cost of $3.57 on crude and $8.76 on dead-burned, making a total of $12.33 per ton, or about 60 per cent for labor.

I have spoken somewhat of the location of the market. It is estimated that 20 per cent of the material is sold in Chicago and west of Chicago; in the Pittsburgh territory, 60 per cent; and east of Pittsburgh, 20 per cent. The cost of delivering the Austrian magnesite and the domestic magnesite at Pittsburgh are indicated by the following: The selling price at the seaboard of the Austrian magnesite is $15 a ton. The freight rate to Pittsburgh is $4.80 a ton, making $19.80 a ton the selling price, which means, mind you, a 100 per cent profit, probably, on the Austrian magnesite. We have not been able to get the cost of mining a ton of magnesite in Austria, but I have cited the report of an industrial engineer in that country to the effect that it was actually sold in Germany at $8 a ton. But, allowing them $15 a ton—pre-war price—at the seaboard in this country and $4.80 freight from the seaboard to Pittsburgh, they deliver it at Pittsburgh at $19.80, whereas it costs $38.40 to deliver a ton of dead-burned magnesite from Chewelah, Wash., which represents the production cost and freight added. So the difference between the cost in Pittsburgh of Austrian magnesite and of American magnesite, according to those figures, is $18.60. We are asking a tariff of only $15, hoping for some reduction in the freight rate and some possibility of cutting down the cost of production, so that it might be possible for us to compete upon equal terms at Pittsburgh, where 60 per cent of the market exists.

In Chicago, where 20 per cent of the market is found, the pre-war selling price at the seaboard was $15 on Austrian magnesite; freight from seaboard to Chicago via New Orleans, $7.20; making $22.20 for Austrian magnesite delivered in Chicago. The domestic magnesite cost on board the cars at Chewelah was $20; railroad freight to Chicago, $16.50; making $36.50; and the difference between the cost of domestic and Austrian magnesite delivered in Chicago was $14.30. I believe these figures to be the best figures which can be obtained, and they have been scrutinized with the utmost care by both those who were friendly and those who were unfriendly to the rate we were asking. According to these figures, at the rate we are asking, Austrian magnesite would simply have a disadvantage of 70 cents a ton in Chicago, while it would have an advantage of $3.60 in Pittsburgh.

Using foreign selling price—pre-war—as against our cost price to deliver at Pittsburgh, even on a $15 per ton tariff, before we can reach that market the railroad freight or other costs must be reduced $3.60 per ton.

In compiling these figures the short tons of dead-burned magnesite have been reduced to short tons of crude in order to show the consumption of crude ore.

These figures show that before the late war the average annual consumption of dead burned was an equivalent of 300,000 short tons of crude, of which the domestic production was 10,000.

In 1920 the consumption of dead burned and calcined equaled the equivalent of 366,877 short tons, of which 303,767 short tons, or 80.3 per cent, were domestic production.

Since the end of 1920 the Washington mines have been entirely closed down. There has been no domestic production there at all. I have here, though it is not necessary to read it, a detailed statement of the wages paid to skilled and unskilled workmen in Austria, given by the week in crowns. I am not going to put all the figures in the RECORD, but metal workers, skilled workmen received 20,000 to 30,000 crowns per week, and unskilled workmen 8,000 to 13,000 crowns per week. Estimating a miner's pay at 20,000 crowns per week, the people engaged in the mining of magnesite for a 6-day week would receive in wages the equivalent of 50 cents a day in gold, which I believe is what they are getting now for pro-

ducing magnesite in that country. There are no wages in the magnesite mining of Washington, because the mines are closed down, but as nearly as can be ascertained by comparison with similar industries in the West, the wages paid to miners are $4.50 to $5 here as compared with 50 to 60 cents a day paid by the Austrian producers.

I am not going to read the schedule to show the rates that are given the steel industry, which, as I said, have nearly all been increased, they being the only ones who are objecting to the rates we ask here, which would make an increase admittedly of only 3¾ cents in the production of a ton of steel selling at about $40 a ton, even though the entire tariff rate were added to the cost, which we all know would not be the case.

The rates were fixed by the House after a long and careful investigation by the Ways and Means Committee as to what they believed would comply with the principles upon which the Republicans base a protective tariff, namely, to bring about fair competitive conditions, or, as is sometimes stated, to cover the difference in the cost of production in the United States and abroad.

After that sort of examination by the Ways and Means Committee they fixed a rate upon dead-burned magnesite at three-fourths of 1 cent per pound. That is all we are asking. Not only have the Ways and Means Committee of the House examined this matter once but they have examined it twice. They reported out something like two years ago a special bill for this industry indicating a desire that they had—an honorable and legitimate and earnest desire on their part—to preserve in this country a great industry that had sprung up through the exigencies of the war. That bill came to the Senate and went to the Finance Committee. It was examined by that committee with the utmost care, and they made a favorable report to this body upon that rate. That is the rate we are asking, which I think we have demonstrated is necessary in order to give to this industry that degree of protection which the Republican Party advocates and which can not be sustained upon any principle or theory unless we make it uniform in its application and give it to everybody who comes within the terms and conditions under which a protective tariff theory is established.

I merely wish to say a few words further. I am speaking of this matter not from theory, not from what I have read, nor from what I have heard from witnesses, but from what I have seen with my own eyes. Not many months ago I had an opportunity to visit my home State, and I went to Chewelah to this great mine and saw mountains of the crude material and the beginnings which had been made in excavating it to bring it to the factories some 4½ miles from the mines on the Great Northern Railroad. That built up the town around the industry. When I was there it was closed down. As this report says, it has been closed down since the end of 1920. It is closed down now. It will continue closed down unless a rate is given sufficient to enable it to meet this imported material upon something like equal terms. That is what we are asking for.

If you give this industry that rate you will see those unoccupied buildings reoccupied. This factory that has nobody there but a watchman will be a teeming hive of industry. Those mines will afford the means of sustenance and life for hundreds and thousands of good American citizens. If you want to do it, grant this rate. I can understand thoroughly why a Democrat who does not believe in a protective theory—though I know some Democrats do believe in it—should vote against a protective tariff bill, but I do not see any principle which would induce a Democrat to vote against an item in a tariff bill which would give to that item and to that particular industry the benefit of this system, if the system is going to be adopted. Then you can vote against the bill and the whole system and defeat it, and that leaves everybody on an equal basis.

But if you are going to vote protection, give it to the West as well as to the East. We have been long enough the servitors to the wealth of the great manufacturing States of the East, grown great through a system of high rates upon manufactured products and free trade in raw materials. This is not a raw material, because it is the product of the labor of men. It may be a raw material to the steel industry that uses it, but it is not a raw material to those men whose enterprise and industry have gone into the mountains and dug it out of the earth and conveyed it to the railroads and taken out the dross and burned it until it is in that condition in which it can be used for fire brick in the manufacture of the metals of the country. It is their finished product and, as such, the product of their industry, and is entitled to the benefit of the protection to which every American citizen is entitled if this is going to be the policy of the country.

Mr. KELLOGG. Mr. President, will the Senator yield for a question?

Mr. POINDEXTER. Certainly.

Mr. KELLOGG. On page 136 of the Summary of Tariff Information I notice that the principal imports are from Canada, Austria-Hungary, Greece, Mexico, and Venezuela. Has the Senator a statement of the amount imported from each country?

Mr. POINDEXTER. I have not that at hand, but I can say to the Senator that the amount imported from Venezuela is negligible. There is a very small quantity imported from Canada. The only imports of importance are those from Greece and Austria.

Mr. KELLOGG. Where does the Canadian product come from?

Mr. POINDEXTER. There is very little comes from Canada. I do not know from what part of Canada it comes. It is practically negligible.

Mr. FLETCHER. Mr. President, I can only furnish in reference to this item such information as has come to me from people who are very trustworthy and reliable. I would make particular reference to the data submitted to me by the representatives of the Magnesite Mining & Manufacturing Co. This is a Delaware corporation with headquarters in New York. It is composed of American citizens who have invested very considerable money in Venezuela, on the island of Margarita, just off the coast of Venezuela, and also in mines and railroads and expensive machinery, scows, tugboats, and equipment of that sort.

It seems to be an American concern. They are greatly interested in the matter of imposing a duty upon magnesite. They claim that if this duty is imposed as provided in the bill—five-sixteenths of 1 cent per pound—it will completely put them out of business. They estimate that five-sixteenths of a cent per pound would amount to $7 a ton on crude magnesite, and that a duty of four-tenths of 1 cent would amount to $8.96 per ton of dead burned and grain magnesite not suitable for manufacture into oxychloride cement.

It appears this is quite an important article. The uses have been developed to a very good extent and it covers now quite a broad field. It seems that magnesite in one form or another, according to the statement of these gentlemen, is used in the following industries and for the following purposes:

First. The building industry and the production of sanitary and fireproof flooring, wall and window slabs, artificial marble, stone, ornaments, stucco work, and for many other building material purposes.

Second. In the steel industry, for manufactures of refractory brick, also in the copper-smelting industry for lining converters. It seems the steel industry is only interested in a very small portion of the uses in which this article is employed.

Third. Manufactures of sulphate of magnesium, known as Epsom salts, for medicinal, technical, and commercial purposes.

Fourth. In the manufacture of carbonic acid gas.

Fifth. Fireproofing and fire-protection purposes.

Sixth. Paint industry, especially fireproof paints for airplanes, and so forth.

Seventh. In the manufacture of magnesium chloride.

Eighth. In the manufacture of millstones.

Ninth. An antidote against arsenic poisoning.

Tenth. Many other articles of great commercial value can be produced from magnesite, as, for instance, asbestos wood switchboards, steam-pipe insulation, refrigerator insulation, and so forth.

So it seems to be quite an important article.

The representations made to me—and I shall put this letter in the RECORD after I have finished commenting on it—are that all of the factories manufacturing magnesite brick are located in Pennsylvania and Maryland, and the imposition of a prohibitive duty on the raw material will simply put those brick plants out of business and result in the establishment near the domestic raw material of new plants to replace them, which would mean that the goods would be manufactured to a large extent in foreign countries.

The argument is further made that the reserves of magnesite in the United States are entirely too small to justify considering a duty that would be prohibitive. They say that, according to the Geological Survey estimates, the California reserves are almost insignificant, amounting to only 750,000 tons, and the Washington reserves are estimated to be about 7,000,000 tons, half of which is unfit for commercial use.

The American Refractories Co. have over $2,000,000 invested abroad in magnesite operations—perhaps that is in Austria or Greece, though I am not advised where that is—which is many times the total of unamortized investments in magnesite

investments in the United States. The Magnesite Mining & Manufacturing Co.—that is, this Delaware corporation with offices in New York—has $1,500,000 invested, which it is contended would be destroyed by placing a duty on magnesite; and that means any duty at all, I take it, from these representations.

There is a large calcining plant at Runyon, in the State of New Jersey, which represents American money to the extent of $500,000, engaged entirely in manufacturing building materials, and if a duty is placed on raw magnesite that plant would be destroyed and a large number of persons would be thrown out of employment——

Mr. POINDEXTER. Let me ask the Senator a question.

Mr. FLETCHER. Just a moment and I will finish the sentence—and the many pottery industries, for which New Jersey is famed, would be required to pay a higher rate for the magnesite they use, which would seriously injure their business and in numerous instances cause failures. That is the representation which is made with respect to the imposition of any duty at all.

Mr. POINDEXTER. Mr. President, that shows how utterly unreliable are the views of a man who makes an article out of magnesite and sells it as to what is good for him and his business, because one of the chief advocates of the increase in this rate is the largest manufacturer of that kind in the United States. He wants an increase of duty on magnesite.

Mr. FLETCHER. What manufacturer is that? Will the Senator give his name?

Mr. POINDEXTER. He is in Chicago; I have his name here, which I can furnish to the Senator. The principal market of the country for plastic building material is in Chicago and tributary to Chicago.

I merely want to make a further suggestion to the Senator from Florida. He can see for himself, it seems to me, that the fears and apprehensions of this manufacturer in New Jersey could not possibly be realized; that this proposition could not ruin his industry because all that he would have to do in case there were an increase in the price of the finished product by reason of the tariff—which is almost infinitesimal when it is applied to the finished product—would be to increase his price to that extent to the consumer. That is the theory on which the protective tariffs are based; that there might be a slight increase to the consumers, but that they can afford to pay that slight increase in order to promote the industries of the country, give employment to the people, and furnish a market to the producers.

Mr. FLETCHER. This increase, while it is quite small as provided in the figures of five-eighths of a cent a pound, and so forth, is quite a considerable item when it is estimated in the ton, and will run into $7 or $8 a ton on the raw material; so I take it that would have a very considerable bearing on the business of the gentlemen who are engaged in importing it from their mines in Venezuela or on the island adjacent to Venezuela.

Mr. POINDEXTER. Of course, when it comes to the importer, the man who has a mine in Venezuela, I can understand his interest in opposing this tariff; but in this case, as in other cases, we want to protect the American laboring man, if we are going to have protection at all, against the competition of cheap labor, so as to enable our men to be employed and to put our producer upon an equal basis.

As the Senator from Florida has stated, the duty amounts to a considerable sum per ton; but when the application of that is made to the ultimate consumer it becomes an infinitesimal sum—3¾ cents increase in the cost of a ton of steel. The same principle would apply when it is used in building material.

Mr. FLETCHER. Mr. President, there is a very important product called zenitherm, which is stated in the circular to be "the ideal building material for exterior and interior use for castle or cottage." I have here quite a lengthy description of what the material is. It is important as a building material, and, of course, we are all more or less concerned about that.

What these gentlemen claim seems to be borne out, if not conclusively, at least very strongly, by certain affidavits which they submit and which I will ask to have printed in the RECORD, including one by Emil Rueff, who resides at Highlands, N. J., and who is president of the Magnesite Mining & Manufacturing Co. He says:

> Said corporation has extensive long leases on mining properties on the island of Margarita, Venezuela, from which for many years it has been mining crude magnesite and importing the same into the United States.

Now, without taking up time to define all their holdings, they pass on to this particular point:

> The proposed duty of five-sixteenths cent per pound of crude magnesite would mean a complete loss to the Zenitherm Co. of its investment in the calcining plant at Runyon, N. J.; it would also mean a complete loss to the Magnesite Mining & Manufacturing Co. of its investment and business in Venezuela and would necessitate a shutting down of the mines and a complete abandonment of the entire proposition, at a great loss of American money to American citizens who have invested in these magnesite mines in perfect good faith. The further mining of magnesite and the importation of crude magnesite to the United States could not possibly be continued under such a duty—

That is, the duty of five-sixteenths of a cent a pound—

> As a result, the business of calcining the raw magnesite and importation by said company into the United States would likewise come to an end.

Then he proceeds to say, further:

> It take from 2 to 2⅝ tons of crude magnesite to produce 1 ton of calcined magnesite. The only other sources of supply of magnesite that are of any importance are certain mines on the western coast of the United States and mines in Greece. Magnesite mined in California and other Western States can be calcined there and shipped to the Eastern States and other parts of the country without being subjected to any duty, the freight rates being based on 1 ton of calcined material, which, as before stated, is the result of from 2 to 2⅝ tons of the raw material, while raw material imported from Venezuela and calcined in the United States will be required to pay duty on 2 tons and upward of the raw material and freight on the same amount before it can be delivered to the factory for calcining, and if any duty is added, magnesite can not be imported. This duty and freight are so high that the resulting cost of Venezuela magnesite calcined in the United States is very much in excess of the price which the California and other western magnesite, calcined there, can be delivered in competition with the Venezuela magnesite.

Then further details are set out, showing the consequences and results of the imposition of such a duty on the investment in the mines and also on this industry at Runyon, N. J.

Attached also is an affidavit from Mr. Sonderhof, who says:

> I * * * reside in the city of New York. My business is that of commission merchant, and my special line of work has for a great many years past been the sale of magnesite and products and heavy chemicals. I have been actively engaged in the purchase and sale of magnesite for upward of 25 years in the United States, my headquarters having been in both New York and Chicago.

He says he is—

> thoroughly familiar with the prices of both crude and calcined magnesite coming from all these various sources and now being sold in the markets of the United States. By reason of my thorough knowledge of the magnesite market, I know that during recent years and under present conditions, to wit, the importation of both crude and calcined magnesite from foreign countries without duty, the calcined magnesite coming from California has been and is actually being sold in competition with the calcined magnesite imported from Greece and with the crude magnesite imported from Venezuela and calcined in the United States and sold in the eastern territory of the United States. In other words, the cost of producing the calcined magnesite in California and paying the freight thereon to the eastern part of the United States nevertheless makes it possible to sell the California calcined magnesite at prices similar to the Grecian calcined magnesite and the Venezuela crude magnesite calcined in the United States and still leave the California producers a margin of profit. Consequently it is my opinion that the imposition of a duty on crude magnesite from Venezuela and calcined magnesite from Greece is not necessary to enable the California producers to sell their product in the eastern part of the United States. I know of several cases where a user of calcined magnesite on the eastern coast of the United States is now purchasing calcined magnesite coming from the California mines, even though the raw magnesite from Venezuela and the calcined magnesite from Greece is likewise being offered for sale in this same territory.

I think that is also true as to Washington.

> In the Middle West—that is, points west of Cleveland, Pittsburgh, etc.—is the greatest market for calcined magnesite. The price at which California magnesite, calcined, can be delivered in that territory is such that Grecian calcined magnesite and the Venezuela crude magnesite, calcined in the United States, can not compete in price with the California product. This is the fact even under present conditions, where neither crude nor calcined magnesite coming into the United States has to pay any duty.
>
> I am reliably informed that the Magnesite Mining & Manufacturing Co., which mines magnesite in Venezuela and has been importing the crude magnesite to the United States, would be compelled to abandon its mines and cease the importation of crude magnesite into the United States in case the proposed duty of five-sixteenths of 1 cent per pound is levied. Such action would very seriously affect the business of the Zenitherm Co. to the extent that such company would be compelled to abandon its calcining plant, which was especially established for the purpose of calcining magnesite which the company expected to purchase from the Magnesite Mining & Manufacturing Co. from its mines in Venezuela, thereby causing many workingmen to lose employment, the calcining plant would remain idle, and the investment of the Zenitherm Co. in this part of its business become an entire loss.

That statement is sworn to by this gentleman, who has been for 25 years engaged in the business.

Mr. POINDEXTER. Mr. President——

Mr. FLETCHER. I yield to the Senator from Washington.

Mr. POINDEXTER. The advocate of the Venezuela mine from whom the Senator from Florida has quoted said that if this rate goes into effect they will be compelled to close down the Venezuela mine, as I understood the reading of the paper. I should like to ask the Senator from Florida if this result would not also follow, that when the supply is cut off from Venezuela, an equal amount being consumed in this country, it would not have the effect of starting the industry in the United States to produce that same amount here instead of in Venezuela? Would the Senator prefer to have it produced by American labor in the United States or to have it produced in Venezuela?

Mr. FLETCHER. I should prefer to have it produced in the United States if we have it here and if at the same time we can supply the markets of the whole country. For instance, this argument here is, according to the experience of these gentlemen, that the mines on the west coast—he refers specifically to California, but I take it that the statement would apply also to Washington—can mine this material there and calcine it and supply the market from Pittsburgh west under present conditions and successfully compete with the people on the eastern seaboard, like New Jersey, who can calcine the material brought in from Venezuela, even though now the material is without duty, and the calcined product is likewise without duty. In other words, we may be able to serve both halves of the United States, or both coasts, by meeting the wishes of both parties here. The western industry can survive and flourish and serve all west of Pittsburgh, while this industry might well serve the people east of Pittsburgh.

Mr. POINDEXTER. Mr. President, that statement is just a general statement, as I understand from a reading of it, and it is just a guess or a prediction as to what would happen in case this rate went into effect. I have cited here in detail the specific items going to make up the necessary cost of production in Washington, adding to that the cost of delivering it in the various markets to which the Senator has referred, and comparing that with the most reliable information that is obtainable, and which I believe to be entirely reliable, as to the selling price—not the cost of the Austrian magnesite, because we could not get that, but the selling price of the Austrian magnesite at the seaboard—and the same thing would apply to the Venezuelan magnesite, which includes, of course, the profits of producers. Add to that their cost of reaching Pittsburgh and Chicago, and the result is entirely different from the predictions made by the party making the affidavit from which the Senator read. That shows that on the Atlantic coast the foreign importer would have a great advantage; at Pittsburgh he would still have an advantage to the extent of $3.60 a ton; and at Chicago he would practically be on even competitive terms with the American producer. Under those conditions the only way in which the American producer could hope to share the principal market with him would be by getting a reduction in freight rates in the future and by scientific management of his mines, so that after the industry gets on its feet it might be able to cut down the cost of production to some extent. That is a very different situation, as shown by the actual figures, from the estimate given by this importer whom the Senator is quoting.

Mr. FLETCHER. It seems to me there is a danger, perhaps, if you make the duty too high and make it prohibitive as to the importations of magnesite from abroad, that you will force all calcining to be done in Venezuela and Greece, and you will force the manufacture of the products of that material into those countries, because I doubt very much if the supply in Washington can be brought clear over to the Atlantic coast, on account of the high freight rate, and serve the Atlantic coast—the seaboard States on this side—as against the products that may be manufactured in foreign countries.

Mr. JONES of Washington. Mr. President——

The PRESIDING OFFICER (Mr. SHORTRIDGE in the chair). Does the Senator from Florida yield to the Senator from Washington?

Mr. FLETCHER. I yield to the Senator.

Mr. JONES of Washington. Judging from the statement which the Senator has read, this gentleman seems to be very closely connected or very intimately acquainted with the Venezuelan magnesite.

Mr. FLETCHER. Yes.

Mr. JONES of Washington. I wonder if he states in that paper how much of the Venezuelan magnesite comes into this country.

Mr. FLETCHER. I have not the figures as to that. They give the amount of the investment in this company.

Mr. JONES of Washington. My thought is that it is very significant to find that in 1921 we imported from Venezuela only 1,000 tons of the crude magnesite.

Mr. FLETCHER. That was in what year?

Mr. JONES of Washington. Nineteen hundred and twenty-one. That is, according to the report of the Department of Commerce; so that gentleman seems to be very closely connected with the Venezuelan import.

Mr. FLETCHER. They state:

The Magnesite Mining & Manufacturing Co. has $1,500,000 invested which would be destroyed by placing a duty on magnesite.

Mr. JONES of Washington. Here is our official statement of the imports for 1921, showing just 1,000 tons of not purified Venezuelan magnesite.

Mr. FLETCHER. It may be a comparatively new business. I am not advised as to that. It is probable that they have not very long since closed their leases and put in their plant over there, invested in railroads and equipment for mining, and all that sort of thing, and it is possible that it is comparatively new.

Mr. JONES of Washington. Is this gentleman interested in the Venezuelan company?

Mr. FLETCHER. Yes; the affidavit which I read says that he is the president of it.

Mr. JONES of Washington. Oh, I see; I did not catch that.

Mr. FLETCHER. He says:

I reside at Highlands, N. J., and am the president of the Magnesite Mining & Manufacturing Co., a Delaware corporation.

It is this corporation that has the investment in Venezuela; and the last affidavit I read was from this gentleman, who has been in the business of importing for some 25 years.

There is another affidavit submitted here by Mr. R. B. Sutter, who says he resides in Newark, N. J., and he is president of this Zenitherm Co., which has an office in the city of New York and a factory at Runyon, N. J. The Zenitherm Co. relies upon the Delaware corporation operating in Venezuela for its supply of the raw material.

Said company manufactures a building material which it calls "zenitherm," the main ingredient of which is calcined magnesite. It is mainly used as a building material in the form of building cement.

That is this "zenitherm" that is made out of the magnesite.

A few years ago my said company formulated plans for the manufacture of its magnesite cement, having found that it could purchase the crude material coming from the mines in Venezuela at satisfactory prices to enable it to be calcined at the company's plant in New Jersey. The plant of the company at Runyon, N. J., now represents a value in excess of $500,000, and the business of the company is entirely that of manufacturing building materials. In view of its previous experience, the company finally decided that in order to assure a uniform product on which it could depend under all circumstances, it was necessary to import the crude material and calcine the same in its own factory and under its own control. These plans for calcining were also formulated as the then existing tariff law which provided that crude magnesite could be imported free of duty. At that time, after careful inquiries, it was found that the United States practically depended upon the importation of magnesite for the supply of its raw material.

I have been in the business of manufacturing this product for a great many years and am thoroughly familiar with magnesite, its uses and preparation, and also with general market conditions throughout the United States. As president of my said company I have made it my business to be thoroughly acquainted with all available magnesite sources. It takes in excess of 2 tons of crude magnesite to produce 1 ton of calcined magnesite. It has been my experience that magnesite imported as crude from Venezuela and calcined in the eastern part of the United States can not compete with California calcined magnesite in the Middle West; that is, points west of Cleveland, Pittsburgh, etc., which is the largest market for magnesite in the United States. This is the case even when it is considered that at the present time magnesite is imported into the United States free of duty.

Of course, I take it the same thing would apply to Washington as to California.

The capacity of the Zenitherm Co.'s plant at Runyon, N. J., is approximately 250 tons of calcined magnesite per day. The effect of the proposed duty of five-sixteenths cent per pound on crude magnesite would be that California calcined magnesite and Grecian calcined magnesite could be sold in the eastern part of the United States at a lower figure than the Zenitherm Co. could produce calcined magnesite made from crude magnesite at its factory. As a consequence the Zenitherm Co. would have to abandon all operations connected with the calcining of magnesite at its said plant in New Jersey.

As president of a company which is largely engaged in the calcining of magnesite from Venezuela in the United States and employing a plant and labor for that purpose, I respectfully request that crude magnesite be continued on the free list.

Mr. President, I ask to have this letter and these affidavits inserted in the RECORD.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

WASHINGTON, D. C., *April 19, 1922.*

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

DEAR SIR: Paragraph 204a of H. R. 7456, this session of Congress, known as the tariff bill, provides a duty of five-sixteenths of 1 cent per pound (which amounts to $7 per ton) on crude magnesite, and a duty of four-tenths of 1 cent per pound (or $8.96 per ton) on the dead-burned and grained magnesite not suitable for manufacture into oxychloride cements. Heretofore there has been no duty on crude or dead-burned and grained magnesite. Many times representatives of the companies producing magnesite in the State of Washington appeared in favor of a proposed tariff and as many times representatives of companies manufacturing refractory products opposed the bill, and practically all of the witnesses representing manufacturers of composition floors and other users of imported magnesite opposed the bill, it resulting that the committees were heretofore satisfied that to place a duty on such character of magnesite would be harmful to the industry of manufacturing and to the many users. To place a duty on crude or dead burned and grained magnesite now would be to destroy large investments of American money which were made based on the fact that there was no duty on raw magnesite.

We represent the Magnesite Mining & Manufacturing Co., a Delaware corporation with headquarters in New York, composed of American citizens who have invested the money in leases, for long periods, on magnesite mines on the island of Margarita off the coast of Vene-

zuela, and have invested very much money in mine railroads, expensive machinery, scows, and tugboats.

The rapid growth in the number of these industries using magnesite in the last few years has been phenomenal, and as yet the use of these articles seems to be still in its infancy. Magnesite in one form or another is being used in the following industries for the following purposes:

1. Building industry. (In the production of sanitary and fireproof flooring, wall and window slabs, artificial marble, stone, ornaments, stucco work, and for many other building material purposes.)
2. Steel industry. (Manufacture of refractory bricks; also in the copper-smelting industry for lining converters.)
3. Manufacture of sulphate of magnesium, known as Epsom salts, for medicinal, technical, and commercial purposes.
4. Manufacture of carbonic acid gas.
5. Fireproofing and fire protection purposes.
6. Paint industry (especially fireproof paint for airplanes, etc.).
7. Manufacture of magnesium chloride.
8. Manufacture of millstones.
9. An antidote against arsenic poisoning.
10. Many other articles of great commercial value can be produced from magnesite, as, for instance, asbestos wood switchboards, steam-pipe insulation, refrigerator insulation, etc.

All of the factories manufacturing magnesite brick are located in Pennsylvania and Maryland, and the imposition of a prohibitive duty on the raw material will quickly put those brick plants out of business and result in the establishment near the domestic raw material of new plants to replace them, which would mean that goods would be manufactured to a large extent in foreign countries.

Reserves of magnesite in the United States are entirely too small to justify even considering a prohibitive duty on imports the effect of which would be to exhaust our reserves in a very few years. Particularly is this true when we consider that this exhaustion would be largely for the benefit of one concern in the far West, which has already profited to the extent of many times its original investment. The Geological Survey estimates the California reserves at the insignificant quantity of 750,000 tons, and in Washington the survey estimates a total of about 7,000,000 tons, half of which is unfit for commercial use.

The American Refractories Co. has over $2,000,000 invested abroad in magnesite operations, which is many times the total of all unamortized investments in magnesite in the United States.

We do not believe that it was intended by the committee to deliberately recommend the destruction of investments by supporting a complete embargo against importations.

The Magnesite Mining & Manufacturing Co. has $1,500,000 invested, which would be destroyed by placing a duty on magnesite, and there is a large calcining plant at Runyon, in the State of New Jersey, which represents American money to the extent of $500,000, which is engaged entirely in manufacturing building materials, and if a duty is placed on raw magnesite this plant would be destroyed and a large number of persons thrown out of work; and the many pottery industries, for which New Jersey is famed, would be required to pay a higher rate for the magnesite they use, which would seriously injure their business and in numerous instances cause failures.

We are sending herewith an affidavit from Emil Rueff, president of the Magnesite Mining & Manufacturing Co., and one from G. A. Sonderhof, a commission merchant whose special line of work has been for a great many years past the sale of magnesite, and another affidavit from Roser B. Sutter, a resident of Newark, N. J., and president of the Zenitherm Co., with offices in New York City, owners of the calcining plant at Runyon, N. J. These affidavits are made by men experienced in the purchase, manufacture, and sale of magnesite in all its forms and are unusually capable from their long experience to judge of the effect of a duty on magnesite, both upon the companies which they represent and upon the users of either the raw or manufactured magnesite. Their affidavits plainly point out the great harm to be done to the magnesite industry if any duty whatsoever is placed upon the raw, dead burned, and grained magnesite.

We would ask, on behalf of those citizens whom we represent, that you offer an amendment to the tariff bill that no duty whatsoever should be placed upon imported magnesite.

Respectfully submitted.

STRICKLAND & TITTMANN,
By CHARLES T. TITTMANN.

In the United States Senate, re duty on magnesite, section 204 A, H. R. 7456, Sixty-seventh Congress, second session.

STATE OF NEW YORK, *County of New York, ss:*

Emil Rueff, being duly sworn, deposes and says:

I reside at Highlands, N. J., and am the president of the Magnesite Mining & Manufacturing Co., a Delaware corporation.

Said corporation has extensive long leases on mining properties on the island of Margarita, Venezuela, from which for many years it has been mining crude magnesite and importing the same into the United States. Said leases were sought and obtained, and are only of value in consideration of crude or raw magnesite being brought into the United States free of duty. This crude magnesite was then calcined in factories in the United States and used here. None of this crude magnesite is being calcined in Venezuela, as there are no facilities there to burn the magnesite, and to establish a calcining plant has been found to be quite impracticable, aside from depriving the American laborer of wages which would then be paid to foreign labor.

I am also the president of the American Carbonate Co., a New York corporation, which for upward of 20 years manufactured carbonic acid gas from crude magnesite, which it imported partially from Greece and partially from the mines of the Magnesite Mining & Manufacturing Co. in Venezuela. This gas could not be manufactured at the mines and imported to the United States, and sold there as cheap as it could be made in America. I personally had charge of the business and affairs of both the above companies, and am therefore thoroughly familiar with all the details both of the magnesite mining and its importation, calcining, and use.

The magnesite company has invested large amounts of American capital in the mining properties in Venezuela for the proper exploitation of mining there, consisting of a mining railroad, docking facilities, and mining equipment. The mines were leased and the entire arrangements made for the sole purpose of exporting the magnesite to the United States, and in view of the fact that the United States levied no duties on the importation of crude or raw magnesite.

One of the principal customers of the magnesite company is the Zenitherm Co. of Runyon, N. J., to whom the crude magnesite is sold and who has established a large calcining plant at Runyon, N. J., for the purpose of calcining magnesite. The proposed duty of five-sixteenths cents per pound of crude magnesite would mean a complete loss to the Zenitherm Co. of its investment in the calcining plant at Runyon, N. J. It would also mean a complete loss to the Magnesite Mining & Manufacturing Co. of its investment and business in Venezuela, and would necessitate a shutting down of the mines and a complete abandonment of the entire proposition, at a great loss of American money to American citizens who have invested in these magnesite mines in perfect good faith. The further mining of magnesite and the importation of crude magnesite to the United States could not possibly be continued under such a duty. As a result the business of calcining the raw magnesite and importation by said company into the United States would likewise come to an end.

My thorough knowledge of the magnesite business for many years makes me positive of this result, and for the following reasons:

It takes from 2 to 2¾ tons of crude magnesite to produce 1 ton of calcined magnesite. The only other sources of supply of magnesite that are of any importance are certain mines on the western coast of the United States and mines in Greece. Magnesite mined in California and other Western States can be calcined there and shipped to the Eastern States and other parts of the country without being subjected to any duty, the freight rates being based on 1 ton of calcined material, which, as before stated, is the result of from 2 to 2¾ tons of the raw material, while raw material imported from Venezuela and calcined in the United States will be required to pay duty on 2 tons and upward of the raw material and freight on the same amount before it can be delivered to the factory for calcining, and if any duty is added magnesite can not be imported. This duty and freight are so high that the resulting cost of Venezuela magnesite calcined in the United States is very much in excess of the price which the California and other western magnesite, calcined there, can be delivered in competition with the Venezuela magnesite.

The Greek magnesite likewise can be calcined in Greece and will then be shipped to the United States at freight rates which are equivalent to the freight rate on 1 ton of crude magnesite. Consequently it is impossible for the American company, the Magnesite Mining & Manufacturing Co., to deliver its crude material to the factories in the United States for calcining at a price which will enable said factories to calcine the crude material and have it ready for sale at a price which will enable it to compete in any manner with the very much cheaper calcined magnesite from Greece. In this connection it must be borne in mind that the labor necessary for calcining magnesite in Greece is very much lower than the wages paid American laborers, and, furthermore, Greece has the advantage of the lower rate of exchange which can fairly be presumed to continue for many years to come.

The result of the foregoing situation is:

1. The consumer of calcined magnesite would get an inferior quality of calcined magnesite. This product is used very largely for building purposes, particularly as a cement, and the nature of the product is such that it is in its best condition if used within a short time after it has been calcined and at or very near the place where it is calcined.

Calcined magnesite readily absorbs moisture and therefore loses its caustic quality and consequently should not be shipped long distances. This absorption of moisture and loss of caustic quality causes a serious deterioration of the calcined magnesite, inasmuch as the cement made from it will not set and cement as quickly or effectively as the calcined magnesite in its fresh condition. This results in a considerable loss of time, as builders are always anxious to use floors and similar structures in which cement is used as soon as possible. A considerable loss of time in the construction of buildings results, and it can readily be seen that this involves a handicap in completing buildings, which are most urgently needed. It also results in payment of higher prices for buildings.

2. If magnesite in its crude form could be imported to the United States from Venezuela without payment of any duty, it could be calcined at the factories in the United States, which would mean employment of American labor at prices prevailing here; it would mean the continued employment of capital invested in the calcining plants, such as the one at Runyon, N. J.; it would mean a fair return on the American capital invested in the Venezuelan mines; it would mean income in the nature of freight to be paid American vessels for shipping the raw material from Venezuela to New York; and, finally, it would mean a possibility of offering to the American public a calcined magnesite at a cheaper price than the calcined magnesite imported from Greece.

EMIL RUEFF.

Subscribed and sworn to before me this 18th day of April, 1922.

[SEAL.] ALFRED H. ERICHSON.

(Notary public, Kings County, N. Y., No. 87; New York County, No. 29; New York County register's No. 3031; Kings County register's No. 3013; commission expires March 30, 1923.)

In the United States Senate. In re duty on magnesite. Section 204 A, H. R. 7456. Sixty-seventh Congress, second session.

STATE OF NEW YORK,
County of New York, ss:

G. A. Sonderhof, being duly sworn, deposes and says:

I am of mature age and reside in the city of New York. My business is that of commission merchant, and my special line of work has for a great many years past been the sale of magnesite and products and heavy chemicals. I have been actively engaged in the purchase and sale of magnesite for upward of 25 years in the United States, my headquarters having been both in New York and Chicago.

In the course of my business I have handled magnesite coming from Greece, India, Venezuela, Canada, and California, and I have made it my business to become thoroughly acquainted with every known source of supply of magnesite, its use, the persons actually purchasing the same, and the conditions under which it was produced, shipped, and sold.

As a consequence, I am also thoroughly familiar with the prices of both crude and calcined magnesite coming from all these various sources and now being sold in the markets of the United States. By reason of my thorough knowledge of the magnesite market, I know that during recent years and under present conditions, to wit, the importation of both crude and calcined magnesite from foreign countries without duty, the calcined magnesite coming from California has been and is actually being sold in competition with the calcined magnesite imported from Greece and with the crude magnesite imported from

Venezuela and calcined in the United States and sold in the eastern territory of the United States. In other words, the cost of producing the calcined magnesite in California and paying the freight thereon to the eastern part of the United States nevertheless makes it possible to sell the California calcined magnesite at prices similar to the Grecian calcined magnesite and the Venezuela crude magnesite calcined in the United States and still leave the California producers a margin of profit. Consequently, it is my opinion that the imposition of a duty on crude magnesite from Venezuela and calcined magnesite from Greece is not necessary to enable the California producers to sell their product in the eastern part of the United States. I know of several cases where a user of calcined magnesite on the eastern coast of the United States is now purchasing calcined magnesite coming from the California mines even though the raw magnesite from Venezuela and the calcined magnesite from Greece are likewise being offered for sale in this same territory. In the Middle West—that is, points west of Cleveland, Pittsburgh, etc.—is the greatest market for calcined magnesite. The price at which California calcined magnesite can be delivered in that territory is such that Grecian calcined magnesite and the Venezuelan crude magnesite calcined in the United States can not compete in price with the California product. This is the fact, even under present conditions, where neither crude nor calcined magnesite coming into the United States have to pay any duty.

I am reliably informed that the Magnesite Mining & Manufacturing Co., which mines magnesite in Venezuela and has been importing the crude magnesite to the United States, would be compelled to abandon its mines and cease the importation of crude magnesite into the United States in case the proposed duty of five-sixteenths of 1 cent per pound is levied. Such action would very seriously affect the business of the Zenitherm Co., to the extent that such company would be compelled to abandon its calcining plant, which was especially established for the purpose of calcining magnesite which the company expected to purchase from the Magnesite Mining & Manufacturing Co. from its mines in Venezuela, thereby causing many workingmen to lose employment, the calcining plant would remain idle, and the investment of the Zenitherm Co. in this part of its business become an entire loss.

G. A. SONDERHOF.

Sworn to before me this 18th day of April, 1922.

[SEAL.] ALICE WEAVER,
Notary Public, Queens County.

(Certificate filed in New York County.)

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In the United States Senate. In re duty on magnesite. Section 204 A, H. R. 7456. Sixty-seventh Congress, second session.

STATE OF NEW YORK,
County of New York, ss:

Roser B. Sutter, being duly sworn, deposes and says:

I am of mature age and reside in Newark, N. J., and am the president of the Zenitherm Co., which has an office in the city of New York and a factory at Runyon, N. J.

Said company manufactures a building material which it calls "zenitherm," the main ingredient of which is calcined magnesite. It is mainly used as a building material in the form of building cement.

A few years ago my said company formulated plans for the manufacture of its magnesite cement, having found that it could purchase the crude material coming from the mines in Venezuela at satisfactory prices to enable it to be calcined at the company's plant in New Jersey. The plant of the company at Runyon, N. J., now represents a value in excess of $500,000, and the business of the company is entirely that of manufacturing building materials. In view of its previous experience, the company finally decided that in order to assure a uniform product on which it could depend under all circumstances it was necessary to import the crude material and calcine the same in its own factory and under its own control. These plans for calcining were also formulated as the then existing tariff law provided that crude magnesite could be imported free of duty. At that time, after careful inquiries, it was found that the United States practically depended upon the importation of magnesite for the supply of its raw material.

I have been in the business of manufacturing this product for a great many years and am thoroughly familiar with magnesite, its uses and preparation, and also with general market conditions throughout the United States. As president of my said company I have made it my business to be thoroughly acquainted with all available magnesite sources. It takes in excess of 2 tons of crude magnesite to produce 1 ton of calcined magnesite. It has been my experience that magnesite imported as crude from Venezuela and calcined in the eastern part of the United States can not compete with California calcined magnesite in the Middle West; that is, points west of Cleveland, Pittsburgh, etc., which is the largest market for magnesite in the United States. This is the case even when it is considered that at the present time magnesite is imported into the United States free of duty.

The capacity of the Zenitherm company's plant at Runyon, N. J., is approximately 250 tons of calcined magnesite per day. The effect of the proposed duty of five-sixteenths cent per pound on crude magnesite would be that California calcined magnesite and Grecian calcined magnesite could be sold in the eastern part of the United States at a lower figure than the Zenitherm company could produce calcined magnesite made from crude magnesite at its factory. As a consequence the Zenitherm company would have to abandon all operations connected with the calcining of magnesite at its said plant in New Jersey.

As president of a company which is largely engaged in the calcining of magnesite from Venezuela in the United States and employing a plant and labor for that purpose, I respectfully request that crude magnesite be continued on the free list.

ROSER B. SUTTER.

Sworn to before me this 18th day of April, 1922.

[SEAL.] EFFIE V. REDMOND,
Notary Public, No. 310, New York County. Reg. Office No. 4338.

Mr. FLETCHER. This statement is sworn to. All of these are affidavits, sworn to before a notary public, and certified to be true. I do not question but that they are true; and if they are true it would seem that California and Washington can very successfully compete in the markets and control all the markets west of Pittsburgh, and compete in any other markets in the country—in fact, take away the market of this country, even where there is no duty on raw magnesite.

Mr. JONES of Washington. Mr. President, will the Senator permit me to suggest that whatever the theory may be, whatever the ideas of this man may be, we know that our mine is closed, absolutely.

Mr. FLETCHER. That is for the mining of raw material. As I understand, that operation out there never has included the calcining of the magnesite at all. It is just simply handling the raw material.

Mr. JONES of Washington. I think it is calcined, too. They burn it, I think, as the Senator from Utah says. That was my impression, that they burn it. They invested millions of dollars during the war. Now the plant is absolutely closed.

Mr. FLETCHER. I take it, if these statements are true, that all they have to do is to go on with their industry and calcine this magnesite and put it to the same use and find a market. They simply have to develop their market, and they can do that, on account of the freight rates and conditions, and they can have the whole market west of Pittsburgh for their product, it would seem, even if there is no duty at all on magnesite. Therefore, under these circumstances, I feel constrained to oppose even the duty that is included in the bill, and certainly the amendment that is offered by the Senator from Washington.

Mr. GOODING. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ball	Harris	McKinley	Sheppard
Borah	Harrison	McLean	Shortridge
Brandegee	Johnson	McNary	Simmons
Broussard	Jones, N. Mex.	Newberry	Smith
Bursum	Jones, Wash.	Nicholson	Smoot
Capper	Kellogg	Norbeck	Spencer
Cummins	Kendrick	Oddie	Sterling
Curtis	Keyes	Page	Sutherland
Ernst	Ladd	Pepper	Walsh, Mass.
Fletcher	La Follette	Phipps	Warren
Frelinghuysen	Lodge	Pittman	
Gooding	McCormick	Poindexter	
Hale	McCumber	Robinson	

The PRESIDING OFFICER. Forty-nine Senators having answered to their names, a quorum is present.

Mr. McCUMBER. Mr. President, if I can have the attention of the Senate a very few moments, while we have 49 Senators present, I think at least we can shed a little light on this matter, which becomes one of the material things we have to consider in the tariff bill.

In a colloquy between the Senator from Iowa [Mr. CUMMINS] and myself on Saturday, in discussing the question of the rate to be fixed on any given commodity, I took occasion to say at that time, in answer to his query, that there would be many instances in which the committee had to consider the matter of freight rates, and often they had to consider the question as to whether the freight rate should be taken into consideration in the matter of fixing the tariff, or whether we would have to give up any attempt to make a tariff rate high enough to protect the industry where the freight rates were excessively high. This is one of those cases which is at least within the twilight zone of such a condition.

I trust Senators will not conduct separate arguments in different parts of the Chamber while I am proceeding. I, of course, shall be gratified if Senators have made up their minds on this question and are ready to vote on it without any further consideration. We have taken this product off of the free list and have given a rate of $8 a ton. The only question is whether we should increase that rate to about $15 a ton. I am considering the dead burned product, which has been discussed by the Senator from Washington [Mr. POINDEXTER].

The committee agreed with the Senator from Washington regarding the desirability of maintaining the American industry. It considered that the war-time cost was somewhat higher than at the present time, and in view of the extreme importance of the product, and also since the number of producers in the United States was very limited, it did make a most careful analysis of the situation. It found that the American costs should be somewhat lower than those submitted by the United States producers.

It was found that the cost of the most important of these products, coming from Czechoslovakia, Austria, and other European countries, was somewhat above the pre-war cost, and not something below the pre-war cost.

We had to take into consideration the costs in those foreign countries, and the cost of production in the United States. The Senator from Washington stated that he was unable to get the cost of production in the foreign countries; but the committee did get that cost, at a very recent date, and we got the figures

on every item of cost in the foreign country and in the United States, and very latest costs that we could get.

Mr. POINDEXTER. If the Senator will pardon me, not being able to get reliable figures as to the cost of production in the foreign countries, we had to take the selling price of the foreign product in American ports, which was greatly to the advantage of the foreign producer, of course.

Mr. McCUMBER. Mr. President, the committee was not limited to that. The committee did obtain, through its experts, the costs of production in the foreign countries, and the many items making up those costs of production, and the freight rates to the different points of consumption in the United States.

It appears that under present conditions the cost of producing dead-burned magnesite, f. o. b. at domestic plants in Washington, is approximately $17 per ton, as compared with a landed cost of foreign magnesite of similar quality at $18 per ton f. o. b. Atlantic ports.

Assuming these costs to be correct, and adding the transportation cost by the cheapest routes, the comparative costs of domestic and Austrian or Czechoslovakian dead-burned magnesite delivered at important consuming centers are given in the figures I have in my hand.

I have the details of all of those costs, which I could put into the RECORD, but I shall not lumber the RECORD with them now. I want to give, in round figures, just what they amount to.

The domestic cost per 2,000 pounds of this product landed in Pittsburgh, via the Panama Canal and by rail, which is the cheapest route, the combined route, is $31.50. The foreign cost per 2,000 pounds landed in Pittsburgh is $23.20, leaving a difference of $8.50 per ton of 2,000 pounds in favor of the importer.

Mr. POINDEXTER. May I ask the Senator from what source he obtained those figures?

Mr. McCUMBER. I obtained the figures which I will give from the experts, who were requested by the committee to ascertain the costs, and they have given them in full, and I can put them into the RECORD.

Mr. POINDEXTER. One of the experts I heard testify before the committee said he had produced magnesite in the State of Washington and was interested in the steel industry, and he was doing everything he could to prevent the increase of the rates.

Mr. McCUMBER. These are not the experts of any producing company but the experts of the Tariff Commission.

Mr. POINDEXTER. If the Senator will pardon me, I will say that the figures which I gave, showing a cost of more than $20 a ton f. o. b. cars in Washington, were taken from the books which were opened up for the examination of the committee by the company that was operating.

Mr. McCUMBER. I do not think we are very far apart on the American cost of production. I have taken it now at the latest date and the cost of labor of the latest date, and not at the highest point in 1920, and the difference is not very great. I think the Senator put it at about $20 a ton and this gives it at $17 a ton.

Now, I will take the Chicago market. The domestic cost to put 2,000 pounds down in Chicago, which, of course, would be all rail from the west coast, is $33.70. The foreign cost to put 2,000 pounds down in Chicago would be $27.60, leaving a difference of $6.10 in favor of the foreign importer.

Now, Mr. President, we have given a rate of $8 per ton. That rate of $8 per ton would give the western manufacturer an advantage in the Chicago district and all points west thereof. It will give the importer some advantage in points east of the Chicago section; in other words, in the Pittsburgh district. Considering the importance of the industry the committee came to the conclusion that it would be better to give a rate which, under the cost of production at home and abroad and taking into consideration the enormous cost of bringing the product all the way from the west coast to the eastern coast, would be a very heavy burden upon the consumer. It was one of those cases where, because of the heavy freight rates, which are always an ugly feature of the situation when we have to bring a heavy product from ocean to ocean, it was believed best to put a rate that would still allow the western producers practically the control of the Chicago market and everything west of Chicago, and would, of course, still give the importer an advantage in the markets around Pittsburgh and east of Pittsburgh.

That, Mr. President, I think, presents the matter in a nutshell.

Mr. JONES of Washington. Mr. President, I am not going to take very much of the time of the Senate. My colleague [Mr. POINDEXTER] has covered the matter very fully, and I shall do nothing more than probably emphasize one or two points that he made.

It seems to me that this item very strikingly illustrates the principles of protection; at least it does to my mind. My idea of protection is such encouragement as will develop, build up, and maintain an industry in this country if there is a possibility of doing so and if the establishment of such an industry is desirable.

It is admitted by everyone that this is a very important product. It is very necessary to some of the great industries of the country. Of course, it is very natural that those great industries should desire to get the product as cheaply as possible, and yet it does seem to me that sometimes we allow our own special interests to blind us to the broader questions which may be involved. While it may be desirable, for instance, that the steel industry should secure magnesite at a cheap rate for the time being, in the broader sense and in the lapse of years it may be the very worst thing that could happen to that industry itself.

Everybody concedes that magnesite is very necessary to the steel industry. We have taken care of the steel industry in pretty good shape. We have given it ample protection. We have probably gone further than we should have gone. I remember in the last few days it has been contended, and with a great deal of force, that some of the tariff rates affecting the steel industry are absolutely unnecessary, and yet we have put them on. I do not believe any injury will come from it. I was willing to vote for the items out of a superabundance of caution.

I want to say that I have no fault to find with the committee. I do not believe that anybody has any cause of complaint against the industry and the desire of the committee to do what they think is the right thing. No one, aside from those of us who are here, can appreciate the difficulties under which the committee has labored and under which a committee in framing a bill of this kind must labor. But it seems to me that the chairman of the committee, the Senator from North Dakota [Mr. McCUMBER], took a position a little different from what I would have taken. It appears to me he has taken the minimum position with reference to this industry, where I think I should take more nearly the maximum. It may be that I am influenced, of course, by the local situation. He has given the benefit of the minimum rate rather than of a higher rate. He has given the importer an absolute, positive advantage. I think that we should have resolved any doubt in favor of the domestic industry and that the twilight zone should have extended so as to take care of the domestic industry.

What was the situation with respect to this industry? In 1913 we were producing in this country only 10,000 tons of magnesite. We had just one mine in operation in all the United States. They were importing into the country, I think, about 160,000 or 170,000 tons of magnesite. One hundred and forty and odd thousand tons of that came from Austria, a country with which we soon became involved in war. When the war came on it acted as a high protective tariff; it acted really as an embargo, and what was the result? This one mine was magnified into 65 mines producing magnesite throughout the country. The 10,000 tons of magnesite production was increased to over 300,000 tons. Of course, they had the home market, which was given to them by the war. Our people went into the industry and developed the mines and put in their money.

Out in my State, as my colleague has pointed out, millions of dollars were invested in the development of the mines. We produced in 1920 some 141,000 tons of magnesite. The war stopped, importations began to come in, and what was the result? With general depression throughout the country, added to by the importations into this country, our mine is closed down, absolutely closed. I just desire to read briefly from the hearings, which speak more eloquently than my words, to my notion, as to the situation. Mr. Bishop was the manager of our mine, I think. In the course of his testimony he said:

> I wish to state to the committee that in the four years' operation our gross receipts have been $6,210,951.18. We have passed to net surplus $1,043,498.11. We now have on hand $40,000, and every cent of our surplus except this $40,000 has been invested in plant and improvements necessary to produce the magnesite required. We are closed down and nine men are watching our property for the insurance companies.
>
> There has not been one dollar of dividends paid, not an officer of the company has received compensation except myself. I have drawn a moderate salary, as I have devoted a large part of my time to active affairs of the company.

So this company, which started the development of this mine under the needs and impetus and demands of war, investing five or six million dollars, declaring no dividends, is now absolutely closed down, with but a few men to watch the plant.

While there has been widespread depression, yet, as a matter of fact, imports since the war closed are increasing, and increasing very largely. I have here a statement of the imports of merchandise into the United States by the Department of

Commerce, an official report. It gives the imports of magnesite for 1913 as a total of 154,098 tons.

In 1918 the imports were 18,636 tons and in 1919 14,153 tons. But note, Mr. President, in 1920 the imports were 43,154 tons, or over three times the imports of 1919. In 1921 the imports were 52,483 tons, or nearly four times the imports of 1919. Mark you, the country that was sending to us in 1913 the greatest part of the imports of magnesite did not send us any in 1920 and 1921, to wit, Austria.

We have a statement in the hearings that in the beginning of 1921 Austria was beginning to ship to this country. We know the conditions over there. According to reports in the hearings their labor only gets 30, 40, or 50 cents a day. Our labor gets $4 or $5 a day. When business revives in this country, instead of a revival in the magnesite industry in this country, it will continue closed, and the imports will keep coming in from the other countries. The Austrian magnesite will begin to come in and take the place that it had when the war began.

Suppose we had not had the capital that would go into this industry when the war came on. We can not conceive of the injury to the steel industry, if you please, that would have had its supply of magnesite shut off entirely. Suppose we allow this foreign magnesite to come in and our mines are shut down and stay closed, and they are abandoned and the machinery gone to wreck and the buildings ruined, and all that sort of thing, and then we should get into trouble again. I do not anticipate it soon—I hope it will not come—but it is possible. Then we would be dependent upon some foreign country for our supply of magnesite. It might be a country, just as was true in the last war, from which the importations would be stopped by the war. Then we would have to start from the bottom, with all the waste and all the expense, not only to the individual but to the Government itself.

It seems to me it is the part of wisdom to use all the necessary means which are required to develop this industry and put it upon a stable and permanent basis. There can not be any question as to the supply of magnesite in this country. If we get it developed, as my colleague pointed out, it means the investment of capital, it means the employment of labor, it means a market for the various productions of the manufacturer as well as the farmer and the producer of the country. The benefits that would come are the benefits which protectionists, at any rate, have claimed would come from a protective policy. It is difficult for me to see just why a protectionist should not be willing to go as far as may be necessary in order to establish the industry.

I know the committee have gone far and the rate seems to be high. The rate of percentage is high, but, Mr. President, it took the embargo of war to develop the industry. It requires a little higher rate in order to get it upon a permanent basis. The time will come in the very near future when we shall have to revise this tariff as to many items. Then if this industry is developed and put upon a permanent basis we may lower the rate. I think it is the part of wisdom to impose such a rate in this case as will insure the development of the industry which has been brought into being by the war.

I am not going to take further time, except I merely wish to call attention to the committee report on the emergency magnesite tariff bill which passed the other House. As has been pointed out, the House passed a bill as an emergency measure, fixing a certain tariff rate on magnesite. That bill came over to the Senate and it went before the Finance Committee. That is the same committee which has reported the pending bill; the committee has almost the same membership now as at that time.

The committee investigated the matter carefully and submitted a report, which is found on page 1072 of the Senate hearings. The committee took a position that appeals to me very strongly; it is in harmony with my views of a protective tariff and of the application of the protective tariff principle. They stated:

> The object of the bill is to protect the magnesite industry of the United States, to enable American consumers to procure the product from American magnesite mines.

Then they go on to state the conditions when the war broke out; that there was only one mine producing only 10,000 tons of crude magnesite per year and that we were importing 172,591 tons, principally from Austria. They say further:

> The war virtually stopped the importation, and in the year 1917 there were only about 4,000 tons imported, and this came largely from Canada. The needs of the steel mills and the smelting works were so great that the industry was greatly developed in this country, and in 1917 there were over 300,000 short tons produced from the mines in the United States. The production of 1917 was as much or more magnesite than was ever used in this country in any one year, and it is perfectly evident that our needs can be supplied from American mines. Magnesite is used in every steel mill and in all the smelting works in this country, and the consumers in the United States have been taking from 50 to 60 per cent of the total magnesite production of the world.
>
> Prior to the war only about 3 per cent of the product consumed in this country was produced from our own mines, while last year nearly all the magnesite used in this country was produced here. So it may be said that the Great War developed this very important industry.

Then they go on to point out the cost of production in this country and Austria, and so forth. I want to read this:

> The evidence disclosed that prior to the war there were less than 50 men employed in the production of magnesite in the United States. In the years 1917 and 1918 there were about 2,000 men directly engaged in the magnesite industry in this country. They were receiving an average wage of $5 per day. These men, with their dependents, made about 10,000 citizens directly dependent upon the magnesite industry.
>
> The hearings before the House committee disclose, however, that Austrian labor in the magnesite industry received from 20 to 40 cents per day, and that the American Refractories Co. stated that Austrian labor received $1.10 per day. In considering the labor question it should be remembered that in Austria they work 12 hours per day, while in America they work 8 hours per day. It is estimated that the direct and indirect labor charge in the magnesite industry in this country is from 75 to 80 per cent of the cost of production.
>
> Your committee, therefore, recommends the passage of the House bill 5218 without amendment.

Mr. President, I ask that this entire report—it only occupies a little over a page—may be printed in connection with my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

EXHIBIT A.

[Senate Report No. 458, Sixty-sixth Congress, second session.]

DUTY ON MAGNESITE ORES.

The Committee on Finance, to whom was referred the bill (H. R. 5218) to provide revenue for the Government and to establish and maintain the production of magnesite ores and manufactures thereof in the United States, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The object of the bill is to protect the magnesite industry in the United States, to enable American consumers to procure the product from American magnesite mines.

Up to 1913 there was but one magnesite mine operating in the United States, and it produced about 10,000 tons of crude magnesite per year. In the year 1913 there was imported into the United States 172,591 short tons of magnesite, of which 163,715 tons came from Austria.

The war virtually stopped the importation, and in the year 1917 there were only about 4,000 tons imported, and this came largely from Canada. The needs of the steel mills and the smelting works were so great that the industry was greatly developed in this country, and in 1917 there were over 300,000 short tons produced from the mines in the United States. The production of 1917 was as much or more magnesite than was ever used in this country in any one year, and it is perfectly evident that our needs can be supplied from American mines. Magnesite is used in every steel mill and in all the smelting works in this country, and the consumers in the United States have been taking from 50 to 60 per cent of the total magnesite production of the world.

Prior to the war only about 3 per cent of the product consumed in this country was produced from our own mines, while last year nearly all the magnesite used in this country was produced here. So it may be said that the Great War developed this very important industry.

Prior to the war magnesite was imported from Austria at a cost of $15.75 per ton. It was stated that the cost at the mines in that country was about $7 per ton. The railroad rates and dock charges amounted to about $2 per ton, and the ocean rates to Atlantic ports were about $2 per ton. The average cost of that produced in the United States at the mine is about $25 per ton, and the freight is from $10 to $16 per ton, depending upon destination, so it will be seen that it will require a tariff of at least 1½ cents per pound to cover the differential.

Sworn cost statements, plus $2 ocean charges.

	At mine.	At Trieste.	At United States Atlantic ports.
Average United States	$25.13	.....	$41.20
Austrian	17.69	$21.94	23.94
Difference in costs	7.44	.....	17.26

Let us in a similar manner show in parallel columns the sworn statement of the Austrian cost and the sworn statement of the lowest American producers.

Sworn cost statements, plus $2 ocean charges.

	At mine.	At Trieste.	At United States Atlantic ports.
Lowest United States	$21.09	.....	$37.22
Austrian	17.69	$21.94	23.94
Difference in costs	3.40	.....	13.28

For many years the magnesite produced in this country came from California, and the greater part of that used by our consumers came from Austria, but the needs brought about by the war caused the deposits in Washington and California to be developed, and by the building of works, exploration of mines, and the liberal expenditure of money some 65 mines were being operated in 1917 and enough magnesite was produced in the two States to supply the entire demand of this country, but to-day there are only 30 magnesite mines being worked, and more will be closed if the industry is not protected, and this country will again be dependent upon Austria for its magnesite, but, with proper protection, our mills will be independent of any foreign producer.

Magnesite, both crude and calcined, has been on the free list since 1883. The pending bill places a duty on magnesite and commercial ore, either crushed or ground, of one-half of a cent per pound; magnesite, calcined, dead burned, and grain, three-fourths of a cent per pound; magnesite brick, three-fourths of a cent per pound and 10 per cent ad valorem.

The evidence disclosed that prior to the war there were less than 50 men employed in the production of magnesite in the United States. In the years 1917 and 1918 there were about 2,000 men directly engaged in the magnesite industry in this country. They were receiving an average wage of $5 per day. These men, with their dependents, made about 10,000 citizens directly dependent upon the magnesite industry.

The hearings before the House committee disclosed, however, that Austrian labor in the magnesite industry received from 20 to 40 cents per day, and that the American Refractories Co. stated that Austrian labor received $1.10 per day. In considering the labor question it should be remembered that in Austria they work 12 hours per day, while in America they work 8 hours per day. It is estimated that the direct and indirect labor charge in the magnesite industry in this country is from 75 to 80 per cent of the cost of production.

Your committee, therefore, recommends the passage of the House bill 5218 without amendment.

Mr. JONES of Washington. That is about all that I am going to say. As I have stated, I have no criticism of the committee; I know that the chairman of the committee is just as strong a protectionist as am I. He looks at this matter from the same standpoint that I do. I recognize that we on the Pacific coast are at a great disadvantage because of our distance from the market and that freight rates are a great handicap; but I feel that as to such an important industry as is this, involving a product so important in so many different lines of manufacturing industry, we may well afford to stretch a point and try to compensate for those disadvantages as much as we can in order to supply our home market by our home people rather than to depend on the foreign producer, and especially for something that is of so great importance in case we shall ever become involved in war.

Mr. McCUMBER. Mr. President, I merely desire to say in reply to the Senator from Washington that, as I previously suggested, we are giving the Washington producers practically everything as far east as the Chicago market. Of course, that would include Indiana and Michigan, with their great iron and steel establishments.

Mr. GOODING. Mr. President——

Mr. McCUMBER. Just one word further. The way that we have computed it would give everything east of Pittsburgh practically to the importer. I appreciate, and I know that Senators all appreciate, the difficulties due to the great cost of transportation. If the transportation cost becomes materially less, I think the western product, with this $8 per ton duty may reach as far east as the Chicago district, but, of course, that is yet to be determined.

I rose at this time particularly to ask that the statement and the tables on which I made my argument a short time ago in favor of the $8 per ton differential may be inserted in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

DOMESTIC COSTS.

The only domestic production comes from Stevens County, in the State of Washington, the shipping point being Chewelah. Cost figures in detail are available only from one main producer, the Northwest Magnesite Co. Owing to some question in regard to the distribution between operating and capital expenditures and wide fluctuations in actual operating costs resulting from the abnormal conditions that existed during the period in which the plant was operated, it is impossible to accept the cost statements without certain reservations. From the latest Bishop report two estimates are possible—one based upon the total operations of the company from its inception, May 4, 1917, to December 31, 1920, when the plant was shut down. During this period a total of 451,332.85 tons of crude magnesite were mined or purchased, of which 374,829.78 were mined by the Northwest Co. The ratio of crude ore to dead-burned magnesite is obtained by dividing the total tonnage delivered to the kilns by the production of dead-burned magnesite. The figures are 368,098 and 171,261, respectively, thus establishing the basic ratio of 2.15 tons crude required to produce 1 ton of dead-burned magnesite. In addition to the above, 8,530,000 tons of iron ore were required, which increased the ratio of raw mix to 2.2 tons.

Detailed costs for the 11-month period June 1, 1918, to May 1, 1919, have also been presented by the Northwest Magnesite Co. These figures indicate a direct operating expense of $7.33 per ton of crude, which is equivalent, according to this ratio, to $15.65 per ton of dead burned; but this statement includes an allowance of 81 cents on "Finch mine development expense." This item has been noted by Mr. Bishop, who explains that it was incidental to the development of the ore actually mined during that period. Analyzing this cost, however, it appears that out of $77,883 charged under this item, $60,472 is classed as "miscellaneous" and only $13,161 as "labor." These figures indicate, in the absence of further explanation, either excessive repairs to equipment or the inclusion of expenditures more properly classed as capital expenditures, or at least expenses, that should be distributed over a much longer period of operation. Adjusting this figure from 81 cents to 20 cents, or approximately 50 per cent more than the labor item, reduces the direct operating expense for the period to $6.72 per ton of crude or $14.45 per ton of dead-burned product.

On the basis of operations from May 4, 1917, to December 31, 1920, the total operating expenses charged under the three main items can be calculated into cost per ton of dead-burned product, as follows:

Labor	$5.95
Material and supplies	6.60
Miscellaneous	2.00
Total	14.55

The above figures represent the average cost as ascertained from the total expenses throughout the entire period of operation of the company's plant, and show a surprising correspondence with those obtained from an analysis of the 11-month period when operations were probably on a more nearly normal level than at any other period in the history of the company.

In addition to direct operating costs, it is only fair to make reasonable allowances for general charges. While it may be argued that the Northwest Magnesite Co. has been practically the only operator in the past and that this company has already had its capital investment returned out of profits, the American Mineral Production Co. is a probable producer and there is a possibility that other producers might later enter the field. After a careful examination of the data relative to the actual capital invested in the Northwest enterprise, it seems proper to make the following allowances per ton for dead-burned product:

Administration and general expense	$0.50
Taxes, insurance, and interest	1.00
Depreciation	.50
Depletion	.50
Total	2.50

The total cost, using the above figures of general expenses in each case, figures out at $17.05 per ton for the entire operations or $16.95 per ton on the basis of the 11-month period (corrected).

As a further check upon the probable cost, it is of interest to refer to the arbitrary estimate prepared by Mr. A. F. Greaves-Walker and published in Senate hearings, part 2, January 13, 1920, on H. R. 5218. This estimate, based upon Mr. Walker's experience in Washington and knowledge of the Northwest Company's operations, is $14.51 per ton. Another theoretical estimate prepared by the committee's experts indicates the following approximate distribution:

Domestic costs (Washington).

MINE.

Quarrying expense per ton of sorted crude	$1.25
Crushing per ton of sorted crude	.20
Tramway per ton of sorted crude	.30
Total per ton of sorted crude	1.75

REDUCTION PLANT.

Magnesite (2¼ tons) per ton of dead burned	$3.90
Iron ore (3 units at 20 cents) per ton of dead burned	.60
Coal (0.33 ton at $7) per ton of dead burned	2.30
Labor per ton of dead burned	1.50
Repairs and supplies per ton of dead burned	2.50
Power per ton of dead burned	.50
Overhead per ton of dead burned	2.00
Total operating per ton of dead burned	13.30
Administrative, etc., per ton of dead burned	.50
Taxes, insurance and interest per ton of dead burned	1.00
Depreciation per ton of dead burned	.50
Depletion, per ton of dead burned	.50
Total per ton of dead burned	15.80

The above estimates are admittedly based upon numerous assumptions, but the evidence clearly indicates that the present-day cost of producing dead-burned magnesite f. o. b. Chewelah, Wash., should not exceed about $17 per ton, and should eventually be reduced to $15 or under.

Foreign costs: It is even more difficult to make any accurate estimate of probable costs in either Austria or Czechoslovakia, in view of the abnormal conditions that have existed in both of those countries since the war. The following estimate, however, has been prepared as being fairly representative of present-day conditions:

Raw material, 2.5 tons, at 50 cents	$1.25
Fuel, four-tenths ton, at $7	2.80
Labor	.50
Works expense	1.00
Power	.30
	5.85
General expenses (Austria and United States)	2.50
	8.35
Depreciation on $4,000,000 investment	1.60
Depletion, 20-year life	.50
Interest, 6 per cent on $3,000,000	2.40
In bulk, f. o. b. Radenthein	14.45

It will be noted that the actual operating expenses, including certain general charges, is given as $8.35. It is also stated by interested parties that Czechoslovakia magnesite has recently been offered freely at $8 per ton f. o. b. works in Czechoslovakia. If we neglect for a moment the operations of the American company, whose expenditures were calculated in United States dollars, it would appear that allowance for depreciation and depletion, when converted into American dollars, can be practically neglected when dealing with the operations in what was formerly Austria-Hungary. It, therefore, seems that a f. o. b. cost of about $10 per ton can be estimated for the foreign product.

In support of this figure it may be further argued that the product was billed before the war at $15.75 per ton f. a. s. Philadelphia, Pa., after paying transportation charges amounting to fully $5 per ton.

TRANSPORTATION.

Since the main consumption of magnesite refractories is in basic open-hearth steel plants, almost all of which are located east of the Mississippi River, transportation is one of the outstanding factors in the cost of magnesite at the points of consumption. The center of gravity of steel production has probably moved west of Pittsburgh. While it is doubtful if it has gone as far west as the Ohio-Indiana State line as estimated by some persons, it seems desirable to show the delivered costs of domestic and foreign magnesite both at Pittsburgh and at Chicago with the assurance that the line that bisects the American consumption of magnesite is somewhere between these two limits. Under present conditions, while brick plants are all located in the East, the consumption by copper smelteries and most of that by firms manufacturing steel castings west of the Mississippi actually must be classed as being eastern consumption.

Delivered cost per short ton at Pittsburgh.

DOMESTIC—ALL RAIL.

Freight on board Chewelah	$17.00
Rail freight to Pittsburgh	18.40
Total	35.40

DOMESTIC—RAIL AND CANAL.

Freight on board Chewelah	$17.00
Chewelah to Pacific port	5.50
Canal rate to Baltimore (on large contract tonnage might be reduced to $3 per ton)	$5.00–8.00
Baltimore to Pittsburgh	4.20
Total	31.70–34.70

FOREIGN—AUSTRIAN OR CZECHOSLOVAKIAN.

Freight on board Radentheim (or Czechslovakian plant)	$10.00
Bags (domestic product shipped in bulk—foreign bagged. 10 bags per ton)	1.50
Rail freight to port (scaled down from Austrian estimate of $4 to cover rail freight (150 miles) and handling into and out of storage at Trieste. Probably about the same from Czechoslovakian plant to Hamburg)	3.00
Ocean freight (Trieste-Baltimore or Hamburg-Baltimore or Philadelphia)	3.50
Transfer charges at Atlantic port	1.00
Rail freight to Pittsburgh	4.20
Total foreign cost	23.20

Delivered cost per short ton at Chicago.

DOMESTIC—ALL RAIL.

F. o. b. Chewelah	$17.00
Rail freight to Chicago	16.70
Total	33.70

FOREIGN.

F. o. b. Radentheim	$10.00
Bags	1.50
Rail freight to port	3.00
Ocean freight	3.50
Transfer charges in United States	1.00
Rail freight to Chicago (via Baltimore, freight Philadelphia to Chicago $8.80 per ton)	8.60
Total	27.60

In order to calculate the delivered cost at other points of consumption, the following freight rates may be taken into consideration:

Chewelah, Wash., to—per 100 pounds:	Cents.
Chicago, Ill	83.5
St. Louis, Mo	83.5
Youngstown, Ohio	92.0
Pittsburgh, Pa	92.0
Cleveland, Ohio	92.0
Birmingham, Ala	92.0
Tacoma, Wash	27.5
Seattle, Wash	27.5
Baltimore, Md., to—per 100 pounds:	
Pittsburgh, Pa	21.0
Youngstown, Ohio	24.0
Chicago, Ill	43.0
St. Louis, Mo	51.0
Cleveland, Ohio	25.0

The rates from Philadelphia points are not equalized and are higher than those from Baltimore, the rate from Philadelphia to Pittsburgh, for example, being 22.5 cents, or 1½ cents per 100 pounds higher than that from Baltimore to Pittsburgh. There has been no movement by way of New Orleans, and the rail rates from that port to most of the consuming centers are practically as high as those direct from Pacific coast points.

Mr. SIMMONS. Mr. President, may we not now have a vote on this magnesite proposition?

Mr. GOODING. I wish to say merely a word; I shall occupy only a minute.

Mr. President, the chairman of the Committee on Finance has been very generous in his statement as to the market which is going to be given to the American miners of magnesite. They are going to be allowed to sell their product as far as Chicago, and possibly to the steel mills of Indiana. As I understand, for a period of two years we produced in this country all the magnesite ore which was needed by the great steel mills. Now we produce less than half of the requisite quantity, and that product is not to be allowed to come any further east than Chicago. In other words, it is proposed to destroy an industry in order to give the steel mills a little cheaper ore which they may bring in from Austria, Czechoslovakia, and other countries.

Mr. President, it seems to me that if we are going to protect the industries of this country we have got to protect them all alike, and if we are going to furnish a market for the manufacturers of the East for what they produce, we have got to permit the West to develop. It can not develop if we are going to say to the industries of that great section, "You can come half way with the products but no further," and that is the notice which has been served by the chairman of the Finance Committee. I wish to say that the time may come when we shall allow the manufactured products of the East to go only half way west. It seems to me we do not want to draw any dead line in this country and turn half of it over to foreigners when we can produce the commodities in America. We produced magnesite at a time when it was almost essential to the very preservation of the Government so far as that is concerned. It is a war necessity as well as a peace necessity, and we ought to go clear through with it and protect it adequately.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Washington to the amendment reported by the committee.

Mr. POINDEXTER. On that question I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. HALE (when his name was called). Making the same announcement as heretofore with reference to my pair and its transfer, I vote "yea."

Mr. LODGE (when his name was called). I transfer my pair with the senior Senator from Alabama [Mr. UNDERWOOD] to the senior Senator from New Hampshire [Mr. MOSES] and vote "yea."

Mr. PHIPPS (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. DIAL] to the junior Senator from Oklahoma [Mr. HARRELD] and vote "yea."

Mr. WARREN (when his name was called). Making the same announcement as to my pair, I vote "nay."

Mr. WILLIAMS (when his name was called). I transfer my pair with the Senator from Indiana [Mr. WATSON] to the Senator from Texas [Mr. CULBERSON] and will vote. I vote "nay."

The roll call was concluded.

Mr. JONES of Washington (after having voted in the affirmative). Has the senior Senator from Virginia [Mr. SWANSON] voted?

The PRESIDING OFFICER. He has not voted.

Mr. JONES of Washington. I have a pair with him for the day. He is necessarily absent. I find that I can transfer that pair to the Senator from Minnesota [Mr. NELSON], and I do so, and will allow my vote to stand.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from New York [Mr. CALDER] with the Senator from Alabama [Mr. HEFLIN];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Virginia [Mr. GLASS];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Indiana [Mr. NEW] with the Senator from Tennessee [Mr. MCKELLAR];

The Senator from Ohio [Mr. WILLIS] with the Senator from Ohio [Mr. POMERENE]; and

The Senator from New Jersey [Mr. FRELINGHUYSEN] with the Senator from Montana [Mr. WALSH].

The result was announced—yeas 29, nays 22, as follows:

YEAS—29.

Ashurst	Gooding	McCormick	Poindexter
Ball	Hale	McKinley	Shortridge
Brandegee	Johnson	McNary	Spencer
Broussard	Jones, N. Mex.	Newberry	Sterling
Bursum	Jones, Wash.	Nicholson	Townsend
Capper	Keyes	Oddie	
Curtis	Ladd	Phipps	
Elkins	Lodge	Pittman	

NAYS—22.

Borah	Kellogg	Pepper	Stanley
Caraway	Kendrick	Robinson	Sutherland
Ernst	La Follette	Sheppard	Warren
Fletcher	McCumber	Simmons	Williams
France	McLean	Smith	
Harris	Page	Smoot	

NOT VOTING—45.

Calder	Crow	Dial	Edge
Cameron	Culberson	Dillingham	Fernald
Colt	Cummins	du Pont	Frelinghuysen

Gerry	Moses	Ransdell	Walsh, Mass.
Glass	Myers	Rawson	Walsh, Mont.
Harreld	Nelson	Reed	Watson, Ga.
Harrison	New	Shields	Watson, Ind.
Heflin	Norbeck	Stanfield	Weller
Hitchcock	Norris	Swanson	Willis
King	Overman	Trammell	
Lenroot	Owen	Underwood	
McKellar	Pomerene	Wadsworth	

So Mr. POINDEXTER's amendment to the amendment of the committee was agreed to.

Mr. POINDEXTER. Mr. President, in order to make the other magnesite schedules conform to the one just adopted by the Senate, I move to strike out "four-tenths" and insert "three-fourths" on page 33, paragraph 204a. That is the clause referring to dead-burned magnesite.

Mr. SMOOT. Does the Senator want to strike out "five-eighths of 1 cent" in the case of the calcined magnesite?

Mr. POINDEXTER. I have no objection to that. I think that ought to be done.

Mr. SMOOT. It will have to be done if we are going to balance this schedule.

Mr. POINDEXTER. Let us get this disposed of, if there is no objection to it.

Mr. ROBINSON. What is the proposal?

Mr. SMOOT. I suggested that we do the same for this that we did for the other.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The ASSISTANT SECRETARY. On line 4 of the committee amendment, page 33, it is proposed to strike out "four-tenths" and to insert "three-fourths," so that, if amended, it will read:

Dead-burned and grain magnesite, not suitable for manufacture into oxychloride cements, three-fourths of 1 cent per pound.

Mr. McCUMBER. I should like to have the yeas and nays on that.

Mr. SMOOT. Just a moment. The Senator knows that we do not want to more than double the rate we adopted on the previous vote. It takes just 2 pounds to make 1.

Mr. POINDEXTER. This is not more than double. This makes it just one-fourth more. It makes it three-fourths instead of one-half.

Mr. SMOOT. This is the dead-burned magnesite?

Mr. POINDEXTER. The dead-burned magnesite. It is not double; it is only 25 per cent more on the dead-burned than on the crude, if this is adopted.

Mr. SMOOT. It was three-tenths before, and now it is four-tenths. Four-tenths would be $8 and three-fourths would be $15.

Mr. McCUMBER. Mr. President, I simply thought that when we changed a rate and raised it from $8 to $15 we ought to have a record vote on it; that is all. If Senators do not want a record vote on it they need not have it, but I just want to show what it means.

Mr. ROBINSON. I ask to have the amendment stated.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The ASSISTANT SECRETARY. In the committee amendment at the top of page 33, line 4, it is proposed to strike out "four-tenths" and to insert in lieu thereof "three-fourths," so that, if amended, it will read:

Dead-burned and grain magnesite, not suitable for manufacture into oxychloride cements, three-fourths of 1 cent per pound.

Mr. McCUMBER. I should like the yeas and nays on that, Mr. President.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. HALE (when his name was called). Making the same announcement as before, I vote "yea."

Mr. JONES of Washington (when his name was called). Making the same announcement as before with respect to my pair and its transfer, I vote "yea."

Mr. LODGE (when his name was called). Making the same announcement as before as to my pair, I vote "yea."

Mr. PHIPPS (when his name was called). Making the same announcement as before with regard to my pair and its transfer, I vote "yea."

Mr. WARREN (when his name was called). Repeating the announcement heretofore made, I vote "nay."

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from New York [Mr. CALDER] with the Senator from Alabama [Mr. HEFLIN];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL];

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Virginia [Mr. GLASS];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Indiana [Mr. NEW] with the Senator from Tennessee [Mr. MCKELLAR];

The junior Senator from Ohio [Mr. WILLIS] with the senior Senator from Ohio [Mr. POMERENE]; and

The Senator from New Jersey [Mr. FRELINGHUYSEN] with the Senator from Montana [Mr. WALSH].

The result was announced—yeas 27, nays 23, as follows:

YEAS—27.

Ashurst	Gooding	Lodge	Phipps
Ball	Hale	McKinley	Poindexter
Broussard	Johnson	McNary	Shortridge
Bursum	Jones, N. Mex.	Newberry	Spencer
Capper	Jones, Wash.	Nicholson	Sterling
Curtis	Keyes	Norbeck	Townsend
Elkins	Ladd	Oddie	

NAYS—23.

Borah	Harris	McLean	Smith
Caraway	Harrison	Page	Smoot
Cummins	Kellogg	Pepper	Stanley
Ernst	Kendrick	Robinson	Sutherland
Fletcher	La Follette	Sheppard	Warren
France	McCumber	Simmons	

NOT VOTING—46.

Brandegee	Gerry	New	Trammell
Calder	Glass	Norris	Underwood
Cameron	Harreld	Overman	Wadsworth
Colt	Heflin	Owen	Walsh, Mass.
Crow	Hitchcock	Pittman	Walsh, Mont.
Culberson	King	Pomerene	Watson, Ga.
Dial	Lenroot	Ransdell	Watson, Ind.
Dillingham	McCormick	Rawson	Weller
du Pont	McKellar	Reed	Williams
Edge	Moses	Shields	Willis
Fernald	Myers	Stanfield	
Frelinghuysen	Nelson	Swanson	

So Mr. POINDEXTER's amendment to the amendment of the committee was agreed to.

Mr. POINDEXTER. In order to make the rest of the paragraph conform with the two rates which have just been adopted by the Senate, I move to strike out, in line 2, on page 33, "five-eighths" and insert "three-fourths."

The VICE PRESIDENT. The Secretary will state the amendment to the amendment.

The ASSISTANT SECRETARY. On page 33, in the committee amendment, line 2, the Senator from Washington proposes to strike out "five-eighths" and insert "three-fourths," so as to read:

Caustic calcined magnesite, three-fourths of 1 cent per pound.

Mr. POINDEXTER. That will give to calcined magnesite the same rate just adopted by the Senate on dead-burned magnesite. The rates ought to be the same.

Mr. SMOOT. I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. HALE (when his name was called). Making the same announcement as before, I vote "yea."

Mr. JONES of Washington (when his name was called). Making the same announcement as before, I vote "yea."

Mr. LODGE (when his name was called). Making the same announcement as before regarding my pair and its transfer, I vote "yea."

Mr. PHIPPS (when his name was called). Making the same announcement as on the previous vote, I vote "yea."

Mr. WARREN (when his name was called). Making the same announcement as to my pair and its transfer, I vote "nay."

The roll call having been concluded the result was announced—yeas 28, nays 21, as follows:

YEAS—28.

Ashurst	Elkins	Ladd	Oddie
Ball	Gooding	Lodge	Phipps
Brandegee	Hale	McCormick	Poindexter
Broussard	Johnson	McKinley	Shortridge
Bursum	Jones, N. Mex.	McNary	Spencer
Capper	Jones, Wash.	Newberry	Sterling
Curtis	Keyes	Nicholson	Townsend

NAYS—21.

Caraway	Kellogg	Pepper	Stanley
Ernst	Kendrick	Robinson	Sutherland
Fletcher	La Follette	Sheppard	Warren
France	McCumber	Simmons	
Harris	McLean	Smith	
Harrison	Page	Smoot	

NOT VOTING—47.

Borah	du Pont	King	Overman
Calder	Edge	Lenroot	Owen
Cameron	Fernald	McKellar	Pittman
Colt	Frelinghuysen	Moses	Pomerene
Crow	Gerry	Myers	Ransdell
Culberson	Glass	Nelson	Rawson
Cummins	Harreld	New	Reed
Dial	Heflin	Norbeck	Shields
Dillingham	Hitchcock	Norris	Stanfield

Swanson	Wadsworth	Watson, Ga.	Williams
Trammell	Walsh, Mass.	Watson, Ind.	Willis
Underwood	Walsh, Mont.	Weller	

So Mr. POINDEXTER'S amendment to the committee amendment was agreed to.

Mr. POINDEXTER. There is one remaining item the rate on which, in order to make it correspond to those just adopted, should be changed. It is on page 31, lines 10 and 11.

The VICE PRESIDENT. The question is first on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

Mr. SMOOT. Will not the Senator allow the item of magnesite brick to go over, as that paragraph is now before the committee for consideration? We shall have to make a change in the rate on the brick, and while we are doing that there are some other changes in the paragraph which the committee would like to make while it is before it for consideration.

Mr. POINDEXTER. As long as we are on this subject of magnesite, I would like to have action on just one more item—magnesite brick—which is the higher form of manufacture. This is the last amendment to affect this product. The amendment is to strike out "four-tenths" and to insert "three-fourths," on page 31, line 11.

Mr. SMOOT. The Senator simply wants to have the Senate disagree to the committee amendment?

Mr. POINDEXTER. The Senator may put it that way—simply to disagree to the committee amendment.

The VICE PRESIDENT. The Secretary will state the committee amendment.

The ASSISTANT SECRETARY. In paragraph 201, page 31, line 10, at the end of the line, the committee proposes to strike out "three-fourths" and insert "four-tenths," so that if amended it would read:

Magnesite brick, four-tenths of 1 cent per pound and 10 per cent ad valorem.

Mr. ROBINSON. Is it desired to take up this brick paragraph?

Mr. SMOOT. Just this part of the brick paragraph.

Mr. ROBINSON. We will not take up the brick paragraph by piecemeal. The Senator from Kentucky [Mr. STANLEY] and I have been waiting and ready to take up the brick paragraph for at least a week, and I insist that if we take up this paragraph or any part of it we shall take it up as a whole and dispose of it.

Mr. POINDEXTER. Mr. President, I think the attitude of the Senator from Arkansas is a very reasonable one, except for the fact that there is contained in this brick paragraph one form of manufactured magnesite which is the subject on which the Senate has just been voting, and it seems to me that there is some inconsistency in the classification.

Mr. ROBINSON. We can discuss that when we reach it in the consideration of the brick paragraph.

Mr. POINDEXTER. Of course, if the Senator insists on his objection, I shall not urge it. The only reason I asked it was because the whole matter has just been debated, and the Senate has just voted on two items.

Mr. ROBINSON. As a matter of fact, the brick paragraph was debated at great length on another day, but it went over at the request of Senators who were not able to be present, and it is very confusing to take up a single proposition within that paragraph. I have no objection whatever to taking up the brick paragraph right now. I have been ready for a week to do it, and would like to do it, and in all probability we shall reach it in regular course in a short time.

Mr. SMOOT. We might as well take up the brick paragraph at this time.

Mr. POINDEXTER. If we do take up the brick paragraph, has the Senator from Arkansas any objection to taking up the magnesite brick item in the paragraph first?

Mr. SMOOT. There is a committee amendment which I desire to offer. I ask the Senator from Arkansas to allow a vote to be taken on the magnesite brick item. I want a yea-and-nay vote on the amendment of the committee at that point.

Mr. ROBINSON. Mr. President, I dislike very much to decline to oblige either the Senator from Washington or the Senator from Utah. I have risen here during the last week six or eight times and asked to take up the brick paragraph. No reason was ever given me for not proceeding except that the committee had under consideration the question of revising the brick paragraph and were not ready to report on it. I learn that during my absence the statement was made that some provisions in the brick paragraph are directly connected with the rates on magnesite, and that is one of the reasons why the brick paragraph has been held in abeyance.

Mr. SMOOT. If the Senator does not object, I would like to read the amendment which the committee will offer. In fact, I would like to offer it now.

Mr. ROBINSON. Very well. Let the amendments be reported.

Mr. SMOOT. On page 31 I desire to withdraw all the committee amendments in paragraph 201, to strike out all of paragraph 201, and to substitute in lieu thereof the following:

PAR. 201. Bath brick, chrome brick, and fire brick, not specially provided for, 25 per cent ad valorem; magnesite brick, four-tenths of 1 cent per pound and 10 per cent ad valorem.

Of course the Senator from Washington will offer an amendment to that.

Then on page 217, after line 5, I move to insert a new paragraph to read as follows:

PAR. 1535a. Brick, not specially provided for: *Provided*, That if any country, dependency, Province, or other subdivision of government imposes a duty on such brick imported from the United States, an equal duty shall be imposed upon such brick coming into the United States from such country.

Mr. ROBINSON. Mr. President, that is a complete revision of the paragraph, and a very important one. If the issue is to be so radically changed, I think it might be very well to let the amendments be printed and have the whole matter go over until Wednesday so that we may have a chance to study the matter.

Mr. SMOOT. I have no objection; but the Senator from Washington would like to have his amendment voted upon, and I think more than likely that would be the best thing to do.

Mr. POINDEXTER. Mr. President, will the Senator from Arkansas yield to me for just a brief statement?

Mr. ROBINSON. Certainly.

Mr. POINDEXTER. I do not know whether the Senator has considered what the item is and the relation it bears to the vote we have already had. We voted just now to restore the rates of the House on crude magnesite and on dead-burned magnesite and on calcined magnesite. Magnesite brick are made out of dead-burned magnesite and of course there ought to be equally as high a rate on magnesite brick, which is a further form of manufacture, as on dead-burned magnesite. The Senate having voted three times on the principle involved, it occurs to me that it ought to vote on the other item.

Mr. ROBINSON. I am bound to say, in reply to the statement of my friend, the Senator from Washington, that I do not see where any principle was involved in the vote on dead-burned magnesite or other forms of magnesite. The fact of the matter is that when we consider the votes upon the amendments of the Senator from Washington and the effect upon other paragraphs in the bill, it is difficult to account for the fixing of so high rates on dead-burned magnesite as are carried in the amendments of the Senator from Washington.

I can not understand why the amendments offered by the Senator from Utah have not been printed, so that the Senate could have an opportunity to study them. I suppose they were all contingent upon the adoption of the Poindexter amendment.

Mr. SMOOT. That is what the committee was waiting for, or else they would have been printed before. As long as we have voted three-fourths of a cent on dead-burned magnesite, those who voted for that rate can not vote for less than three-fourths of a cent on magnesite brick.

Mr. ROBINSON. No; but they might reconsider their votes on dead-burned magnesite if they had a little time to think over it. I believe we had better let this paragraph go over until Wednesday. I request that the amendments proposed by the Senator from Utah be printed, so that we may have them available for examination.

The VICE PRESIDENT. The amendments will be printed and lie on the table.

Mr. SMOOT. Mr. President, I call attention now to paragraph 47 to see if we can not dispose of that now. I will say to the Senator from North Carolina [Mr. SIMMONS] that all the items in paragraph 47 were voted upon and agreed to, with the exception of the last amendment, which imposed a duty upon calcined magnesite, including dead burned and grain. Of course, that has been stricken out and transferred to paragraph 204a, so that by agreeing to all the amendments now as the committee has reported them, it will leave paragraph 47 complete with one exception.

The VICE PRESIDENT. The Senator is reminded that the Senate reconsidered the votes by which all those amendments were agreed to.

Mr. SMOOT. They were reconsidered, and they all have to be voted upon at this time, but if we agree to vote upon them I do not think it will lead to any discussion whatever. In the

rate on epsom salts there is no amendment, but now that we have doubled the rate on magnesite ore, of course, the rate provided for epsom salts is not a sufficient compensatory duty. In fact, the rate is a quarter of a cent less than on the raw material. When the committee amendments are finally disposed of, unless an amendment is brought in before that time, the epsom salts rate in this paragraph will have to be changed.

Mr. SIMMONS. We can not change it now.

Mr. SMOOT. No; I made that statement. I ask now that the amendments in paragraph 47 as reported by the committee be agreed to.

Mr. SIMMONS. The first amendment is to strike out "three-fourths of 1 cent" and reduce it to "one-half of 1 cent." It is not proposed to increase that rate?

Mr. SMOOT. No; just the amendments as they are now in the printed bill.

Mr. SIMMONS. Very well. Let us have a vote on them.

The ASSISTANT SECRETARY. On page 20, in line 18, in paragraph 47, the committee proposes to strike out "three-fourths" and insert "one-half," so as to read:

Magnesium: Carbonate, precipitated, 2½ cents per pound; chloride, one-half of 1 cent per pound.

The amendment was agreed to.

The ASSISTANT SECRETARY. On line 20, after the word "oxide," the committee proposes to insert the words "or calcined magnesia," so as to read:

Oxide or calcined magnesia, medicinal, 7 cents per pound.

The amendment was agreed to.

The ASSISTANT SECRETARY. On page 20, line 21, before the word "calcined," and the semicolon, the committee proposes to insert "Oxide or," so as to read:

Oxide or calcined magnesia, not suitable—

And so forth.

The amendment was agreed to.

The ASSISTANT SECRETARY. On page 22, after the word "use," the committee proposes to insert "three-fourths of 1 cent per pound," so as to read:

Oxide or calcined magnesia not suitable for medicinal use, three-fourths of 1 cent per pound.

The amendment was agreed to.

The ASSISTANT SECRETARY. The committee proposes to strike out, beginning in line 22, the remainder of the paragraph, as follows:

And calcined magnesite, including dead-burned and grained, three-fourths of 1 cent per pound; and magnesite, crude or ground, one-half of 1 cent per pound.

The amendment was agreed to.

Mr. SMOOT. I understand the Senators who are to discuss manganese ore and ferro-alloys are not prepared to proceed. I ask that we now proceed to paragraph 322, railway fishplates.

The ASSISTANT SECRETARY. At the top of page 62, paragraph 322, the committee proposes after the words "splice bars" to insert the words "tie-plates," so as to read:

Railway fishplates or splice bars, tie-plates, made of iron or steel, one-fourth of 1 cent per pound.

Mr. SIMMONS. I have no objection to a vote on the amendment.

The amendment was agreed to.

The ASSISTANT SECRETARY. Before the words "all other," in line 2, the committee proposes to insert "rail braces, and," so as to read:

Rail braces and all other railway bars made of iron and steel, and railway bars made in part of steel, T-rails, and punched iron or steel flat rails, seven-fortieths of 1 cent per pound.

The amendment was agreed to.

Mr. SMOOT. I ask now that we proceed to paragraph 325, jewelers' and other anvils.

The ASSISTANT SECRETARY. In paragraph 325, page 62, line 23, the committee proposes to strike out the word "anvils" and insert "jewelers' and other anvils weighing less than 5 pounds each, 45 per cent ad valorem; all other anvils," so as to make the paragraph read:

PAR. 325. Jewelers' and other anvils weighing less than 5 pounds each, 45 per cent ad valorem; all other anvils of iron or steel, or of iron or steel combined, by whatever process made, or in whatever stage of manufacture, 1½ cents per pound.

Mr. SIMMONS. The Senator from Arkansas [Mr. ROBINSON], I think, wishes to discuss this paragraph.

Mr. ROBINSON. Mr. President, the committee amendment to this paragraph imposes a duty of 45 per cent ad valorem on jewelers' and other anvils weighing less than 5 pounds each. On all other anvils of iron or steel, or of iron and steel combined, by whatever process made, or in whatever stage of manufacture, a duty of 1½ cents is imposed. The present duty on anvils is 15 per cent ad valorem.

The production of wrought anvils in the year 1911 is said to have been about 2,600,000 pounds. An increase in domestic production has followed the declining imports since the beginning of the war and the demand created by military operations. Imports of anvils were something more than 727,000 pounds in 1914. Later statistics show that in 1918 something more than 10,000 pounds were imported, valued at a little more than $1,000 and paying a duty of $174. In 1919 more than 88,000 pounds, valued at something more than $14,000 and paying a duty of a little more than $2,000, constituted the importations.

In 1920 there were 275,805 pounds imported, valued at $33,820, and the duty collected was $5,073. In the first nine months of 1921 the importations were only 34,650 pounds, valued at $3,471.

In view of those facts, Mr. President, it seems that the rate in the committee amendment is excessive. The present rate is only 15 per cent ad valorem, but it is proposed to advance the duty to 45 per cent.

As to jewelers' and other small anvils, this duty, I think, is not justified by the facts. I therefore move to amend by striking out "45 per cent ad valorem" and inserting "20 per cent ad valorem."

The VICE PRESIDENT. The question is on the amendment of the Senator from Arkansas.

Mr. SMOOT. Just a word. Of course, the 45 per cent rate applies only to the very small jewelers' anvils. They weigh less than 5 pounds. The rate in the Payne-Aldrich law was 1½ cents per pound and the present rate, as the Senator from Arkansas has stated, is 25 per cent ad valorem.

Mr. ROBINSON. May I ask the Senator from Utah a question?

Mr. SMOOT. Just a moment. The Tariff Commission states:

Duty at the rate of 1½ cents a pound on jewelers' anvils would be practically negligible.

The rate which the House imposed of 1½ cents per pound is a little less than 10 per cent. Ten per cent on jewelers' anvils, of course, would be simply ridiculous, because, as every Senator knows, jewelers' anvils are of the very finest kind of material, and most of them are not over about 3 inches long. They are very expensive indeed. The Tariff Commission says a duty of 1½ cents a pound would be absolutely negligible.

Mr. ROBINSON. I have not offered any amendment to the provision that will be applicable to a larger anvil because, under the parliamentary status, I am not permitted to do so. The Senate committee did not recommend a change in the figures of 1½ cents a pound on the larger anvils, but merely proposed to advance the duty on a certain class of anvils to 45 per cent ad valorem.

I repeat my former statement that I think 45 per cent ad valorem is not justified by the demands of the industry, even from the standpoint of protection. I therefore move the amendment which I have heretofore offered.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Arkansas to the amendment of the committee.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. SMOOT. I ask now to take up paragraph 332, relative to rivets, and so forth.

Mr. SIMMONS. Mr. President, why not take up paragraph 329?

Mr. SMOOT. I will say to the Senator that paragraph 329 went over for the consideration of the committee. The committee expected to consider that paragraph this morning, but the Senator was in the committee and knows that the whole time of the committee was taken up by the consideration of the bonus bill, and we could not reach paragraph 329.

Mr. SIMMONS. How about considering paragraph 331?

Mr. SMOOT. The same statement applies to that paragraph.

Mr. FLETCHER. My understanding was that paragraphs 329 and 331 went over at the suggestion of the committee.

Mr. SMOOT. Yes.

Mr. FLETCHER. Now it is proposed to take up paragraph 332?

Mr. SMOOT. Yes.

The VICE PRESIDENT. The committee amendment in paragraph 332 will now be stated.

The ASSISTANT SECRETARY. On page 66, paragraph 332, line 3, the Committee on Finance proposes to strike out "25" and to insert "40," so as to make the paragraph read:

PAR. 332. Rivets, studs, and steel points, lathed, machined, or brightened, and rivets or studs for nonskidding automobile tires, 40 per cent ad valorem; rivets of iron or steel, not specially provided for, 1 cent per pound.

Mr. FLETCHER. Mr. President, on that amendment I wish to submit some comments. Under the act of 1913 the duty on those articles was fixed at 20 per cent ad valorem; under the act of 1909 the duty was fixed at 45 per cent ad valorem; and under the bill as it came from the other House a duty was provided of 25 per cent ad valorem. Now, the Committee on Finance proposes to make that duty 40 per cent. The description of these articles as found in the Summary of Tariff Information is as follows:

Description: A rivet is a headed pin or bolt of metal used to unite two or more pieces by passing it through them and heading the plain end. Ordinary bolts of iron or steel are provided for in paragraph 123.

That is another article.

A stud is a small pin or rod for holding members together or fitting parts to one another. The term steel points is nontechnical and self-explanatory.

The production, it seems, is rather difficult to get at because the rivets, studs, and so forth, are not separate from the general class of bolts, nuts, washers, and rivets. We had those up under paragraph 330.

The imports since 1917 have been as follows: Rivets, studs, steel points, and so forth, in 1918, 1,519 pounds, valued at $344; the amount of the duty collected was $69, the rate being 20 per cent ad valorem. In 1919 the imports were 60,355 pounds, valued at $3,709, the duty being $742. In 1920, 3,330 pounds were imported, the value was $681 and the duty $136. For the first nine months of 1921 the imports were 3,900 pounds, of the value of $325. It is not a very great industry, and I shall not take up much time with it.

Of the rivets of iron or steel not specially provided for the imports amounted in 1918 to 48,481 pounds, of a value of $4,887, the duty collected being $977; in 1919 the imports were 65,900 pounds, valued at $5,928, and the duty was $1,186. In 1920 the imports were 25,600 pounds, valued at $2,718, the duty being $544. For the first nine months of 1921 the imports were 6,566 pounds, valued at $544. The exports are not recorded and there is no information in regard thereto.

The situation is that importations have been very slight and the amount of duty which we have been realizing almost negligible, because of the slight importations, although the rate of duty has only been 20 per cent.

Mr. JONES of New Mexico. Mr. President——

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from New Mexico?

Mr. FLETCHER. I yield.

Mr. JONES of New Mexico. I call to the Senator's attention the statement relative to the production of bolts, nuts, rivets, and washers. The Senator has just made the statement that the production of rivets is not given separately and that is true; but in the class where we find that character of production the quantity is very large. In 1914 the production was over $23,000,000, and that is found on page 431 of the Tariff Summary of Information which the Senator from Florida holds in his hand relative to paragraph 330.

Mr. FLETCHER. But that refers to paragraph 330, on which we have already acted.

Mr. JONES of New Mexico. Well, the statistics in connection with paragraph 330 also cover rivets, and there is given the production of those four different items as being over $23,000,000.

Mr. FLETCHER. Yes; the production is very large.

Mr. JONES of New Mexico. There were large exports also, and I take it that rivets go along with the other items mentioned there, and that there would be no greater necessity for a duty upon rivets than for a duty upon nuts and washers and bolts.

Mr. FLETCHER. I should not think so, and under that paragraph the statement is made that the imports are small compared with the exports, and since 1914 have been very slight. The chief feature is that the production of that class of materials is large; that the exports very greatly exceed the imports, and the imports have been slight; but under the paragraph covering these particular items the exports are not given, although the imports, as we have just seen, are very small.

Mr. JONES of New Mexico. The Senator will find the statement of the exports of the same four items on page 432, showing that several million dollars worth of those items are exported.

Mr. FLETCHER. Yes; of bolts, nuts, rivets, and washers since 1917 the exports have been all the way from 63,000,000 pounds in 1918, valued at $5,687,000, to 89,000,000 pounds in 1919, valued at $7,769,893; and in 1920, 87,233,028 pounds, valued at $7,274,411. Those are the exports, as shown on page 433 of this summary, of bolts, nuts, rivets, and washers. The exports of rivets, studs, steel points, lathed, machined, or brightened, and so forth, are not given. The point which I wish to make especially is that, according to the statistics the importations of these articles have been inconsequential. The actual amount of duty yielded to the Government has not exceeded $500, except in one or two years. In 1920 it was $1,186—that is the highest—and in 1918 it was $69.

That is the amount of duty, with a rate of 20 per cent ad valorem. The proposal here is to raise this rate to 40 per cent ad valorem. I submit that it is doubling the rate of duty under which now these articles are very largely excluded, with practically no importations, and it simply means that this rate will be prohibitive, and we will get no duty at all. The industry is not in need of that sort of duty for purposes of protection, even if we stood for protection as protection, independent of any question of revenue.

Mr. President, I move that "40" be stricken out and "20" be inserted in its stead, so that the rate will remain as it is now, 20 per cent ad valorem.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The ASSISTANT SECRETARY. In lieu of the sum proposed to be inserted by the committee on page 66, line 3, the figures "40," it is proposed to insert "20."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Florida to the amendment of the committee.

Mr. FLETCHER. I ask for the yeas and nays on it, Mr. President.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. LODGE (when his name was called). Making the same announcement as before as to the transfer of my pair, I vote "nay."

Mr. McKINLEY (when his name was called). I transfer my pair with the Senator from Arkansas [Mr. CARAWAY] to the Senator from Oregon [Mr. STANFIELD] and will vote. I vote "nay."

Mr. WARREN (when his name was called). Repeating the transfer of my pair, I vote "nay."

The roll call was concluded.

Mr. JONES of Washington. Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

Mr. PHIPPS. Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

Mr. FRELINGHUYSEN. Making the same announcement as before, I vote "nay."

The result was announced—yeas 14, nays 38, as follows:

YEAS—14.

Ashurst	Harrison	Robinson	Stanley
Cummins	Jones, N. Mex.	Sheppard	Walsh, Mass.
Fletcher	La Follette	Simmons	
Harris	Ransdell	Smith	

NAYS—38.

Ball	Johnson	McLean	Rawson
Bursum	Jones, Wash.	McNary	Shortridge
Capper	Kellogg	Newberry	Smoot
Curtis	Kendrick	Nicholson	Spencer
Elkins	Keyes	Norbeck	Sterling
Ernst	Ladd	Oddie	Sutherland
France	Lodge	Page	Townsend
Frelinghuysen	McCormick	Pepper	Warren
Gooding	McCumber	Phipps	
Hale	McKinley	Poindexter	

NOT VOTING—44

Borah	du Pont	Moses	Stanfield
Brandegee	Edge	Myers	Swanson
Broussard	Fernald	Nelson	Trammell
Calder	Gerry	New	Underwood
Cameron	Glass	Norris	Wadsworth
Caraway	Harreld	Overman	Walsh, Mont.
Colt	Heflin	Owen	Watson, Ga.
Crow	Hitchcock	Pittman	Watson, Ind.
Culberson	King	Pomerene	Weller
Dial	Lenroot	Reed	Williams
Dillingham	McKellar	Shields	Willis

So Mr. FLETCHER's amendment to the amendment of the committee was rejected.

Mr. SMOOT. Mr. President, I move to strike out "40" and insert "30."

The VICE PRESIDENT. The amendment to the amendment will be stated.

The ASSISTANT SECRETARY. On page 66, line 3, it is proposed to strike out "40" and in lieu thereof to insert "30."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. McCUMBER. I ask now to go to paragraph 217, on pages 38 and 39.

The VICE PRESIDENT. The amendment of the committee will be stated.

The ASSISTANT SECRETARY. On page 39, in paragraph 217, line 11, it is proposed to strike out "28" and to insert "50," so that if amended it will read:

PAR. 217. Plain green or colored, molded or pressed, and flint, lime, or lead glass bottles, vials, jars, and covered or uncovered demijohns, and carboys, any of the foregoing, filled or unfilled, not specially provided for, and whether their contents be dutiable or free (except such as contain merchandise subject to an ad valorem rate of duty, or to a rate of duty based in whole or in part upon the value thereof, which shall be dutiable at the rate applicable to their contents), shall pay duty as follows: If holding more than 1 pint, 1 cent per pound; if holding not more than 1 pint and not less than one-fourth of a pint, 1½ cents per pound; if holding less than one-fourth of a pint, 50 cents per gross: *Provided*, That none of the above articles shall pay a less rate of duty than 50 per cent ad valorem—

And so forth.

Mr. JONES of New Mexico. Mr. President, this is one paragraph among several relating to glassware. The amendment proposed provides for nearly 100 per cent increase in the present rate. I suppose the Senator from New Jersey is prepared to justify the increase in these rates. If so, I am sure we should all be very glad to hear what he has to say on the subject.

Mr. FRELINGHUYSEN. Mr. President, is the Senator addressing me?

Mr. JONES of New Mexico. I understood that the Senator from New Jersey was going to represent the committee on these glassware paragraphs.

Mr. FRELINGHUYSEN. No; I am going to speak on chemical glassware.

Mr. JONES of New Mexico. Then is there no one to justify this increase in the rate on paragraph 217?

I must confess some little astonishment that there is no one who is willing to volunteer a justification for this increase in the rate.

Mr. McCUMBER. I try to accommodate Senators, and when Senators said they wanted to take up paragraph 217, I shifted to paragraph 217. If anyone wants to take it up, if the Senator who has charge of that paragraph on this side is not present, we can still go on with it.

Mr. JONES of New Mexico. I did not ask to have that paragraph taken up. I am perfectly willing to have it taken up, however.

Mr. McCUMBER. Very well, we will take it up.

Mr. JONES of New Mexico. But I did not ask to have it done; I have no particular ax to grind; but I wanted to call attention to the fact that this is a very great increase in the rate of duty on this item of glassware, bottles, and jars, used in every home in the land. It is proposed to increase the duty from 30 per cent to 50 per cent, and I supposed that there would be somebody on the committee ready and willing, and it would seem to me they should be anxious to justify this rate.

Mr. FRELINGHUYSEN. Mr. President, if the Senator wants to go on I will suggest to the chairman of the committee that we proceed with paragraph 218.

Mr. McCUMBER. Very well. I try to accommodate Senators. I would just as soon take up paragraph 218, and I understand the Senator from New Jersey is ready to go on with it.

Mr. JONES of New Mexico. I do not see how we can very well consider paragraph 218 and ignore paragraph 217. They cover parts of the same industry; they are necessarily interlocked, so far as the facts are concerned, and I think there is just as much reason for the increase in the one case as there is in the other.

Mr. McCUMBER. Let me say to the Senator that the paragraphs cover entirely different matters. There is quite a little difference between the ordinary glass bottle and the chemical glassware, which requires a great deal of work. Paragraph 218 relates to the chemical glassware, and, of course, it is an entirely different proposition.

Mr. JONES of New Mexico. There is some chemical glassware mentioned in paragraph 218, but that paragraph does not comprise chemical glassware only. It contains a very large number of different items, and the chemical glassware is the very smallest part of it.

Mr. FRELINGHUYSEN. Mr. President, do I understand that the Senator from New Mexico is willing that we shall proceed with paragraph 218?

Mr. JONES of New Mexico. I am not going to be insistent on any special order at all, but I was just suggesting that the more logical way to begin would be by taking up paragraph 217, because that necessarily will be considered in connection with paragraph 218, and I see no reason for passing over paragraph 217. I should like to have that considered along with the other. It follows in natural sequence, and I can not understand why anyone would insist on going ahead with paragraph 218, with paragraph 217 undisposed of.

Mr. McCUMBER. I will state, if the Senator will allow me, that the Senator from West Viringia [Mr. SUTHERLAND] wants to be present when we discuss paragraph 217, and the Senator from West Virginia is absent. I try to accommodate Senators where it is possible to do so.

Mr. JONES of New Mexico. I think the whole subject had better go over now, and that all paragraphs relating to it should be discussed at the same time. The whole glassware industry is involved, and if there is anyone who wants to be heard upon the glassware industry, I think he should be here, because all these paragraphs relate to the same thing. So if there is no one here prepared to go ahead with paragraph 217, I would like to have the whole glassware subject go over until we can take up together all the paragraphs relating to it.

Mr. McCUMBER. I see no reason why we can not allow the Senator from New Jersey to go on and discuss what he desires upon that paragraph.

Mr. FRELINGHUYSEN. Mr. President, the Senator well knows that these two paragraphs are entirely different. Paragraph 217 relates entirely to products used commercially—bottles, vials, jars, and demijohns—and has no relation whatsoever to paragraph 218. Paragraph 218 covers biological, chemical, metallurgical, pharmaceutical, and surgical articles, an industry which never existed in this country prior to the war. It is strictly a war-time industry, and has reference only to products which are used in laboratories, educational institutions, and in all of the laboratory work in the various large industrial establishments in the country. It is known as chemical glassware.

The production of biological, chemical, metallurgical, pharmaceutical, and surgical glassware is the master-key industry of America. It is absolutely essential to every producing interest in this country, large or small, through laboratory test and analysis, in which this ware is used, the scientific control of such varied industries as iron, steel, raw and refined sugar, packing-house products, fertilizers, rubber manufacture, Portland cement, soap, oil refining, water works, textiles, chemicals, explosives, dyes, and drugs is accomplished.

In each of the foregoing industries the entire process of manufacture is controlled by a laboratory where a very few men using chemical glassware, costing an insignificant amount, guide the production of billions of dollars' worth of materials.

Prior to 1914–15 practically all of this ware was imported from central Europe, namely, Austria and Germany. The blockading of the Central Powers by the Allies found America without any source of supply for such goods. Not only were there not any factories making this ware, but there were no workmen to be found with the proper talent, experience, and ability to do the work.

The manufacturers of glass were appealed to unofficially by heads of governmental departments to do their share in establishing this limited but extremely important industry in America. At a meeting at the outbreak of the war with Germany this duty was allotted them as their share of the successful prosecution of military operations by the Council of National Defense. Plants had to be remodeled, enlarged, and, in some instances, originated; workmen had to be schooled in an entirely new technique. The manufacturers asked for no promises; they simply went ahead and did what they realized was a necessity.

At the signing of the armistice there were in operation 10 established plants making factory blown ware, such as beakers, flasks, tubing, and blanks, and as many plants manufacturing lamps, blown, and volumetric ware.

To-day there are less than half of these plants operating at all, and these at such reduced capacities hardly warranting their continuance. These specially trained workmen are walking the streets or drifting into other industries.

LABOR.

It would be in order to say a word at this time in reference to the attitude of the workmen in the chemical-glass industry. There has been some misconception as to the wages and working conditions in this industry. While it is true that a part of this

trade is organized, on the other hand a larger part is worked on the open-shop basis.

As far back as 1910 the workers realized the necessity of developing the chemical glassware trade in the United States. After thorough investigation, however, both manufacturers and workers found this to be impossible, due to the fact that over half of the chemical glassware used in this country for educational and instrumental purposes was imported free of all duty. The opportunity sought in 1910 was offered in 1914–15 by cessation of importations from central Europe.

In the factory blown or hollow ware department, at the peak of the war the wages of skilled men ranged from $5 to $9 per day. The $9 per day men were the highest skilled workmen in the country, and when compared with skilled workers in other industries, this can not be claimed excessive.

In August, 1921, these workmen accepted a voluntary reduction in wage of 17½ per cent, and increased the working moves on many items; that is to say, increased the number of pieces per day, so that the reduction, instead of being 17½ per cent came nearer to 25 per cent.

This wage was to be effective for one year. Unable to cope with the German competition, these same men, in the hope of securing the college trade for the spring and coming summer, accepted an additional reduction of 10 per cent on all items known as chemical glassware, used by colleges and educational institutions.

In the lamp blown and volumetric departments practically the same action was taken, namely, in February, 1921, wages were reduced 15 per cent, and an additional 15 per cent reduction was accepted in September of the same year.

CAPITAL.

It is a matter of record, and has been so published by the official organ of the American Chemical Society, that the manufacturers have passed this entire reduction to the consumer, notwithstanding his cost of production has not been reduced in proportion, due to his inability to operate his plants on a production basis because of the cheap importations from central Europe.

Mr. President, I ask that this editorial from the Journal of Industrial and Engineering Chemistry of November, 1921, entitled "Square dealing," showing the parallel reductions of prices following the wage reductions, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SQUARE DEALING.

Why bother about strict editorial practice when your heart is full over good news bearing upon American chemical independence? Why speak in impersonal vein about men who are playing the game fairly and squarely and who are making history. If it be considered free advertising, then let it go at that; but we want every American chemist to know exactly what we learned in a conference in this office this afternoon.

The visitors were Mr. E. E. Kimble and Mr. Otis, of the Kimble Glass Co., Vineland, N. J., and Mr. R. T. Will, of the Will Corporation, Rochester, N. Y. From Mr. Kimble we learned a story of the attitude of union labor to the chemical glassware industry which is a veritable ray of bright sunshine, in contrast with the lowering clouds of the threatened railroad strike announced yesterday. At our request Mr. Kimble placed these facts in the form of a letter.

OCTOBER 17, 1921.

DR. CHARLES H. HERTY,
1 Madison Avenue, New York City.

MY DEAR DOCTOR HERTY: In February, at the solicitation of the American Flint Glass Workers' Union, the union met the Chemical Glass Manufacturers at the Hotel Walton, Philadelphia, and the union volunteered to give a 15 per cent reduction in wages to meet the foreign competition with which they were confronted. A further voluntary reduction of 15 per cent was granted the manufacturers in August, 1921, in this same department.

The Chemical Glassware Blowers, an allied division of the Glass Workers' Union, accepted in August a voluntary reduction in wages of 17½ per cent, and increased the working move on many items—that is to say, increased the number of pieces per day—so that the reduction instead of being only 17½ per cent will come nearer to 25 per cent.

The action of these divisions of the American glass workers was highly commendable, and to our mind shows the true American attitude, in that the glass worker has shown himself willing to help reduce the price of American-made glassware to come within reasonable competitive figures with imported ware.

Very truly yours,

E. E. KIMBLE.

That was fine—"But," we asked Mr. Kimble, "have you given the consumer the benefit of that lowering of cost?" "Every bit of it," he replied, "and for confirmation I refer you to Mr. Will." He, in turn, promptly confirmed the statement. Fine, again! "But, Mr. Will [the dealer], have you given the consumer the benefit of your cheaper purchases?" Quick as a flash, he turned to his printed prices in the 1921 issue of the Chemical Catalogue lying near by and showed us the new prices on standard chemical glassware and the prices of the same in his 1920 lists. Lowered, all along the line! To get the matter in more general form we immediately wrote Mr. C. G. Fisher, of the Scientific Materials Co., Pittsburgh, Pa., and asked his current prices on the same items. Here are the prices resulting from the joint attitude of labor, the glass manufacturer, and the dealer:

	1920		Current prices.	
	Will Corporation.	Scientific Materials Co.	Will Corporation.	Scientific Materials Co.
Mohr's buret for pinch cock 50 cc. in 1/10..	$0.70	$0.65	$0.42	$0.45
Liebig's condenser, sealed in coil 250 mm. length	2.70	2.05	1.30	1.15
Extraction apparatus, Soxhlet, 100-cc. capacity, ground joints	6.70	7.00	4.80	6.00
Volumetric flask, glass stoppered, with mark on neck graduated, 1,000 cc	1.25	1.40	.90	1.20
Funnel, separatory, globe shape, stoppered long stem, 500 cc	2.65	2.10	1.75	1.65
Funnel tube, straight thistle top, 250 mm.	.11	.11	.10	10

That is the completed story. The lowering of labor's wages has been completely passed by the manufacturer and the dealer to the ultimate consumer, the chemist in the laboratory. It is a fine instance of square dealing.

During the recent exposition we met Herman Coors, of Golden, Colo. "How about it, old man? What are you doing in chemical porcelain manufacture in these dull times?" "Never busier," he replied, "twice as many orders as in any previous year and doing business under the same motto." The reference was to a bit of advice we gave him several years ago—"Improve the quality of your goods every year, cut down the cost of production, be content with small earnings, and give the consumer the benefit of every possible lowering of costs."

These men, and others like them, have been able to stay in business because the greater number of American consumers have stood loyally by them, recognizing the difficulties of this trying postwar period and determined that in the future America shall be independent in such matters.

Mr. FRELINGHUYSEN. Now, just a word about these exhibits which I have before me on my desk. This article I hold in my hand is a boiling flask. That is an American manufacture. It is resistant glass for boiling chemicals. It is produced at a price, free on board at the factory, of 12 cents. This is the German ware, a similar article, landed, free on board New York, at 7.3 cents. They are practically the same thing.

Here I show a graduated cylinder used for measuring in chemical laboratories. This is the German article, landed free on board New York, for 17 cents. Here is the American article, landed free on board at the factory, for 32 cents.

Here is a funnel separator, manufactured in Germany for 59 cents, and I call the Senate's attention to the workmanship required in this valve, made entirely of glass. Here is the American article, free on board the factory, 94 cents.

Here are comparable measuring pipes, the German 15 cents, the American 21 cents.

I have a letter from Surgeon General Ireland, of the United States Army. In this letter to me, dated May 24, 1922, he said:

WAR DEPARTMENT,
OFFICE OF THE SURGEON GENERAL,
Washington, May 24, 1922.

Senator JOSEPH S. FRELINGHUYSEN,
Senate Office Building, Room 405, Washington, D. C.

MY DEAR SENATOR FRELINGHUYSEN: With reference to telephone conversation with you this date, I am in favor of a protective tariff covering chemical glassware, which tariff should be sufficient to preserve the present American industry.

Upon entry of the United States into the World War great difficulty was experienced in obtaining the requirements of the Medical Department in this commodity. This difficulty continued up to the time that the American industry was developed to the extent of meeting the Army requirements, and thereafter no difficulty was experienced.

It is believed that the development of the American industry on essential war items is one of the important factors in carrying out the policy of national defense.

Very sincerely yours,

M. W. IRELAND,
Surgeon General, United States Army.

I also have a letter from Mr. Charles L. Parsons, secretary of the American Chemical Society, Washington, D. C., dated May 23, 1922, which reads as follows:

AMERICAN CHEMICAL SOCIETY,
OFFICE OF THE SECRETARY,
Washington, D. C., May 23, 1922.

Hon. JOSEPH S. FRELINGHUYSEN,
United States Senate, Washington, D. C.

DEAR SENATOR FRELINGHUYSEN: I take pleasure in writing you that after very careful consideration the American Chemical Society has unanimously expressed its opinion that the development of American-made glassware, chemicals, and chemical apparatus should be encouraged in every possible way.

Accordingly it is a pleasure, as I am personally in hearty accord with this idea, to write you that under the stress of stern necessity an industry of real importance has been built up in the United States for the production of glassware for use in our chemical laboratories and chemical industries. Previous to the war there was no real chemical glassware industry in America.

During the last six years an industry producing glassware second to none in quality has been developed which is now offering chemical apparatus to the American public at a reasonable price. One line of glassware especially has become famous as having no superior in any country, and when life is taken into consideration there is no cheaper

glassware made. There are now in America four large houses making beakers, flasks, tubing, and blanks, and five houses doing extensive lamp glassware blowing and graduating volumetric ware.

With the exception of some 5 to 8 per cent of especially molded glassware, such as large aspirator bottles, Wolff bottles, and gas generators, the American demand can be fully supplied from homemade material of excellent quality.

I sincerely trust that you will be successful in your efforts to see that proper support is given to this important new American industry.

Very truly yours,

CHARLES L. PARSONS, *Secretary.*

Mr. JONES of New Mexico. May I ask the Senator from what he has just been reading?

Mr. FRELINGHUYSEN. I read from a letter addressed to me by the secretary of the American Chemical Society.

Mr. JONES of New Mexico. May I see the letter?

Mr. FRELINGHUYSEN. Certainly. I understand that this society represents over 13,500 college professors and chemists in the United States.

In the testimony of Mr. Eimer, before the Ways and Means Committee of the House in 1919, he said:

We maintain that the chemical glassware and porcelain ware, in connection with other chemical and scientific apparatus, was absolutely essential to the key industries; in fact, to all the important manufacturing industries. We will demonstrate that these key industries can not be started or even maintained without chemical and scientific apparatus. For example, take dyes: Before we can manufacture them we must first develop them in the research laboratory. Then the next step in order after that is to work out the manufacturing method and processes, and that is also done in the laboratory. Then, finally, after the product has been put on a manufacturing basis, the processes must be controlled by what is known as the controlling laboratory. The controlling laboratory is the heart of the modern manufacturing plant. If this laboratory is prevented from operating, the plant is forced to shut down. In the case of the manufacture of guncotton, powder, and explosives, an interruption of laboratory tests would probably result in the blowing up of the whole plant. The laboratory must not be interrupted; the tests have to be carried out continuously.

Mr. President, I know what was accomplished by these industries during the war. I know how, through the energy of the American manufacturer, through the ability and genius of the glass blowers who had never undertaken this class of glass blowing before, they took these models and produced in this country a product practically equal to that of Germany. Germany and Austria, by reason of the low wages paid there, can land this technical glassware in this country at a much lower cost than we can manufacture it here, and unless we protect the industry with a differential between these production costs the industry here must close down.

The question is whether it is worth while for us to have the industry in this country or not. That is the point of view which the committee has taken, that the industry as the key industry should be maintained and protected. Upon that record of American energy and genius I rest my case.

Mr. CUMMINS. Mr. President, I would like to ask the Senator from New Jersey a question, if he will permit me.

Mr. FRELINGHUYSEN. Certainly.

Mr. CUMMINS. The Senator began his statement by saying, as I understood him, that the paragraph relates only to the kind of glass or glass production which he has described. I am very much impressed with his argument in favor of a duty, a very substantial duty, upon this kind of glass. But the paragraph upon which he spoke contains a very large number of other productions than chemical or laboratory glass. What has he to say about those?

Mr. FRELINGHUYSEN. I only spoke of that portion of the paragraph which relates to chemical glassware and said that it had no relation whatsoever to paragraph 217 as far as the biological glassware was concerned.

Mr. CUMMINS. In that the Senator was quite right, but after the first clause of this paragraph, which closes by attaching a duty of 70 per cent, the paragraph proceeds:

illuminating articles of every description, including chimneys, globes, shades, and prisms, incandescent electric light bulbs, with or without filaments, for use in connection with artificial illumination, all of the foregoing, finished or unfinished, composed wholly or in chief value of glass or paste, or a combination of glass and paste, 70 per cent ad valorem.

Then, omitting one clause, it proceeds:

table and kitchen articles and utensils, and all articles of every description not specially provided for, composed wholly or in chief value of glass or paste, or combinations of glass and paste, blown or partly blown in the mold or otherwise, or colored, cut, engraved, etched, frosted, gilded, ground (except such grinding as is necessary for fitting stoppers or for purposes other than ornamentation), painted, printed in any manner, sand-blasted, silvered, stained, or decorated or ornamented in any manner, whether filled or unfilled, or whether their contents be dutiable or free, 65 per cent ad valorem; table and kitchen articles and utensils, composed wholly or in chief value of glass or paste, or a combination of glass and paste, when pressed and unpolished, whether or not decorated or ornamented in any manner or ground (except such grinding as is necessary for fitting stoppers or for purposes other than ornamentation), whether filled or unfilled, or whether their contents be dutiable or free, 50 per cent ad valorem.

I would like to have some information with regard to the ordinary commercial articles. The Senator has convinced me with regard to the production of which he has just spoken, but what about the remainder?

Mr. FRELINGHUYSEN. I was simply dealing with the subject of chemical glassware in my statement. The other part of the paragraph, I believe, the Senator from West Virginia [Mr. SUTHERLAND] understands, and he will defend the duty of 70 per cent ad valorem as absolutely essential to the protection of that glassware. While the Senator from Iowa is right in that the paragraph deals with several types of product, none of them relates to paragraph 217, because that is the bottle paragraph, and really relates to an entirely different branch of the industry. I think the Senator from West Virginia can clearly establish the justification for the other rates.

Mr. CUMMINS. I understood the Senator from West Virginia was to give his opinion with regard to paragraph 217, but paragraph 217 does not cover the articles mentioned in the last part of paragraph 218.

Mr. FRELINGHUYSEN. No; the Senator is correct about that.

The VICE PRESIDENT. What is the pending question?

Mr. FRELINGHUYSEN. Paragraph 218.

The VICE PRESIDENT. What does the Senator desire as to that paragraph?

Mr. FRELINGHUYSEN. I call the attention of the Senator from New Mexico [Mr. JONES] to the fact that under this paragraph, following the chemical glassware paragraph, which products show an increase in importations, the chimney importations have grown from practically a negligible importation in 1918 to $142,000 for nine months of 1921.

The chimneys for gas lamps and tubing have increased from $133,000 in 1920 to $451,000 for nine months of 1921. Globes and shades for gas and electric lights have grown in importations from nothing in 1918 to $371,000 in 1921 for nine months. Tableware and bar glass importations have increased from $31,000 in 1918 to $910,000 in 1919.

All other articles in the basket clause have increased from $2,000,000 in 1918 to $4,815,000 in 1919. The same increase applies to bottles and decanters, from $258,000 in 1918 to $2,473,000 in 1920, and for nine months of 1921, $1,266,000. Candlesticks, candelabra, and chandeliers increased from $1,000 in 1918 to $52,000 in 1919. A progressive increase is shown all the way through. If the testimony of the glassware men is to be believed, the whole industry is menaced by the low cost of production abroad.

Mr. McCUMBER. Mr. President, the Senator from Iowa [Mr. CUMMINS] asked, I think, a very pertinent question, and inasmuch as it does not seem to have been answered directly, I will take a little time to give the results of the investigation that was made in reference to these prices and show to the Senate that while these rates seem rather high they are very much less than the Reynolds report would indicate would be required in order to equalize the difference between the foreign and the American prices.

Now, reverting to paragraph 218, I will take 10 items of electrical glassware. These articles are made in Czechoslovakia and the prices are per dozen. The foreign value is $2.13 per dozen; the landed charges, 85 cents; while the selling price of the imported article in the United States is $5.80. The selling price of the comparable domestic article is $7.49, so the rate required to equalize the difference, allowing a reasonable profit—and we have allowed a profit of 33⅓ per cent—to the foreigner would be 123 per cent. The committee has given 70 per cent.

The next item is electrical glassware from Germany costing $1.64. The landed charge is 74 cents; the selling price of the imported article in the United States is $5.17; the selling price of the comparable domestic article is $6.44. Allowing 33⅓ per cent to the importer, it would require 150 per cent to equalize the foreign with the American selling price.

The next two items are glasses made in England, and per dozen the foreign value is 58½ cents; the landed cost, 6 cents; the selling price of the imported article, $1.48; the selling price of a comparable domestic article, $1.92. The rate required, allowing 33⅓ per cent profit, would be 136 per cent.

Now I will skip over some and take five classes of blown-glass tableware made in Holland. The foreign value per dozen is $5.60; the landed cost, $1.68; the selling price of the imported article is $12.98; the selling price of the comparable domestic article in the United States is $19.73. Allowing 33⅓ per cent profit to the foreigner, it still would require 134 per cent to equalize the difference. The committee has given 65 per cent.

I will next take blown-glass tableware from Belgium, a dozen pieces. The price is $5.94 in Belgium; landed cost, $1.21; the

selling price, $10.50; the selling price of the comparable American article is $9.04. Therefore, it would take only 2 per cent to cover the difference in that one article.

Now we come to the ornamental, and here is where the widest differences occur. Take four items of blown-glass ornamented tableware from Italy. This is by single items. The cost, $1.77; the landed cost is 43 cents; the selling price in America is $4.94; the selling price of the comparable American article is $7.94. Allowing 25 per cent profit, which is the usual charge allowed in those cases, it would require 302 per cent in order to equalize the foreign with the American selling price. The committee have allowed 65 per cent.

Without going into details, the chemical glassware items range from 260 to 472 per cent to equalize the difference, and we have given but 75 per cent.

Mr. President, I could run all of these down and demonstrate that the duties which we have actually allowed are scarcely in any case as much as half of what is absolutely required or was required at the time the report was made, but after making allowance for a decline in American price and other conditions we believe that the industry may be continued in the United States with from 65 to 75 per cent ad valorem duty.

Mr. CUMMINS. Mr. President, I have just one question to present to the Senator from North Dakota for information to assist me in making up my mind in relation to this matter. The Senator from North Dakota has said that in computing the selling price of the foreign article the committee have allowed the importer a profit of either 25 per cent or 33⅓ per cent, as the case may be.

Mr. McCUMBER. Yes.

Mr. CUMMINS. Did the Reynolds Commission report what the profit to the American producer was in establishing the American selling price?

Mr. McCUMBER. Mr. President, they neither reported upon the profit of the American producer nor did they report upon the profit of the foreign producer. What they were required to do was to ascertain the duty which should be levied under the American valuation plan. Of course if we were going to adopt the basis of the American selling price, we had to get the difference between the foreign selling price, the one standard of valuation, and the American selling price, the other standard of valuation, which was proposed.

The experts of the department have informed us that upon the two prices the profits average about the same; in other words, where they have examined into the cost of production, that cost on the opposite side of the water, and the cost of production of the like article on this side of the water were in about the same proportion to each other as were the selling price on the other side of the ocean and the selling price in the United States. That was as near as we could get it.

Mr. CUMMINS. The conclusion from that statement I take it that the committee is of the opinion that 33 per cent is about the average profit of the American producer, based upon the American selling price.

Mr. McCUMBER. The Senator does not understand me. There is allowed a very much greater percentage in landing a product and selling it here than is allowed between the cost of production in the foreign country and what the foreign producer sells the article for in the foreign country. What we are getting at is what we had to compete with in the American market, and therefore we add to what it costs actually to purchase the article in the foreign country, without respect to what the manufacturer there made upon it, the profit which must be allowed to the importer to induce him to take the chances of destruction, pay the insurance, to land it in this country, and to sell it; and we have estimated the usual profits that go to the importer.

There are some lines in which the profits run about 25 per cent—that is the usual profit right along—while in others they go as high as 33 per cent where the cost and the risk involved in the importation is greater.

Mr. CUMMINS. I think I understood the Senator from North Dakota. The point that I have not clearly in my mind is this: How much, if any, reduction could the American producer make and still have a fair profit?

Mr. McCUMBER. What I tried to make clear was that the best evidence that we could secure was that the foreign producer has about the same profit between what it costs him and what he sells it for in his own country—not what he sells it for in this country—as the American has between what it costs him to produce it and what he sells it for in this country. The percentage would be about the same in each instance.

Mr. CUMMINS. At any rate, the committee is of the opinion that these duties are necessary in order to enable our producers to continue in business?

Mr. McCUMBER. I do not think they could continue at all unless they had a duty equivalent to about from 50 to 75 per cent. I can not imagine, with the prices at which the articles are produced abroad, how it would be possible for the American producer to continue in business otherwise.

Mr. SUTHERLAND. Mr. President, in connection with these items relating to flint-glass production, I desire to read a portion of the letter which was written to the President by Thomas W. McCreary, superintendent of the Phoenix Glass Co., and William P. Clarke, president of the American Flint Glass Workers' Union of North America. These two men, one of them representing the operating side of the glass industry, covered by the several paragraphs now under consideration, and the other representing all the workers in the industry, were appointed a committee to go abroad and to examine into all the conditions of this industry on the other side of the water. When they returned they made a very valuable report. Those who are interested in that report may find it in the hearings before the Committee on Finance in relation to the special and administrative sections of the bill, beginning on page 5197. The letter, however, addressed by these gentlemen to the President, part of which I will read, gives succinctly some of the points relating to this industry. I quote from the letter, which is dated Washington, D. C., January 17, 1922, as follows:

SIR: We solicited the honor of personally placing before you for your consideration facts and figures showing the true and actual conditions existing in the flint-glass industry of Europe and the United States. Our knowledge of these facts are personal and is the result of a joint investigation, covering a period of five months, made by us between October, 1920, and March, 1921, during which time we visited the principal glass-producing countries of Europe. Our information was secured from the people actually engaged in the industry, the manufacturers, and workmen and working women of the various countries visited.

We visited the homes of the workmen. We partook of their food in their homes. We observed their living conditions, and also visited the factories and saw the people at work.

Mr. Clarke represented the workmen and Mr. McCreery represented the manufacturers of the flint-glass industry of the United States in the joint investigation made. Each fact as developed was carefully noted, and where a doubt existed in the mind of either, a further investigation was made and the doubt eliminated, with the result that the separate report each made to the respective bodies, the manufacturers and workmen, agreed in every essential.

We will not impose upon you a long citation of figures, but will confine ourselves to a few illustrations showing the difference in the skilled labor cost in Europe and the United States with the belief they will be sufficient to carry conviction. If they are not sufficient we will gladly supply additional facts and figures along the same line.

In Belgium we found the skilled glass worker received 50 cents per 100 pieces, while in the United States the skilled labor cost for 100 pieces of the same article is $2.72. Here we also learned that glass companies made lines of glassware exclusively for the United States trade.

These lines would have no commercial value in the Belgian markets and consequently would be imported into this country at a low valuation, thereby placing the American manufacturers and workman under a double handicap, namely, a low wage rate and an undervaluation import value, when this line of ware could be made in these United States.

In Germany we saw glassware produced at a skilled labor cost of 26 cents per 100 pieces, while the skilled labor cost of producing 100 pieces of the same ware in the United States was $4.26.

We saw factories in Germany and Czechoslovakia, the major part of whose product was and is made for the markets of the United States, and the boast was made to us that they could pay the import duty and place the glassware in the markets of the United States at less cost than it could be manufactured here. We were informed that our import duties could be increased to 100 per cent and yet they could put the glassware into our country at less than our manufacturing cost.

Our observations have confirmed us in the opinion that the foreign manufacturers have as a fixed policy the purpose of keeping wages of all classes of labor, skilled and unskilled, at the lowest possible point, in order to give them a decided advantage in the markets of other countries, where a high wage rate prevails. This is particularly true of the markets of the United States.

When it was suggested to representatives of the manufacturers, which we did, that it would be better for the country, their industry, and all those engaged in it, both manufacturers and workmen, if a higher rate of wages was established and steps taken to develop a home market for their products, we were informed that a home market could not be developed, and the workmen must work for small wages, as that enabled the manufacturers to sell their products in foreign markets. At the same time the information was volunteered that 80 per cent of the glassware produced in Czechoslovakia is exported.

We have brought with us four pieces of domestic produced glassware, used for lighting purposes, in order to demonstrate more clearly the enormous advantage the foreign glass manufacturer has over the American glass manufacturer and workmen.

These articles are staple and are fairly representative of the staple line of illuminating glassware. They are imported very extensively. The skilled-labor cost of producing 100 pieces of the 10-inch chimney is:

Czechoslovakia	$0.07
Germany	.12
United States	2.11

On the 12-inch chimney:

Czechoslovakia	.10
Germany	.14
United States	2.96

The skilled-labor cost of producing 100 pieces of the small white inverted globe is:

Czechslovakia	$0.05
United States	1.66

The skilled-labor cost of producing 100 pieces of the 10-inch white reading shade is:

Germany	$0.26
United States	4.23

Enormous quantities of these articles, foreign produced, enter our markets to the detriment of the American industry.

The ultimate private consumer does not receive the full benefit of the low prices at which these goods are imported. The imported goods are sold to him at a price which is just far enough below the price at which the American manufacturers can put them on the market that domestic producers are driven out of the competition.

It is safe to say the only persons benefited by the importations of foreign glassware under our present system of determining invoice values are the foreign manufacturers and their workmen and those directly interested in their success.

That these goods are frequently invoiced below the value at our ports of entry is proven by our investigation conducted in 1904, when it was ascertained that during that season there was entered at the port of New York 500,000 dozen of the above-mentioned 10-inch white reading shade at a value ranging from 36 to 43 cents per dozen. This was below the cost of the glass material alone to the American manufacturer.

The facts set out in the other report, the complete report made by these men, are very much more exhaustive, but all to the same point, showing the scale of wages in all these countries now being paid or quite recently being paid to their workmen in comparison with the rate of wages paid in the United States. They asked for substantially this ad valorem rate of duty, based upon an American valuation; but while the committee realized that the rates given in the bill now before you are not really adequate, because, as stated in this letter, an ad valorem rate of 100 per cent can be put upon these goods and still the foreign manufacturers can get their goods in here, at the same time it is hoped that these rates will afford a fairly adequate degree of protection for our working people and yet will not entirely shut off foreign competition.

Mr. JONES of New Mexico. Mr. President, I shall not attempt to-night to enter into a general discussion of this question, but shall content myself with saying just a few words in regard to the points which have been touched upon by the Senator from New Jersey [Mr. FRELINGHUYSEN], the Senator from West Virginia [Mr. SUTHERLAND], and the Senator from North Dakota [Mr. MCCUMBER].

The Senator from New Jersey gave us some very interesting data regarding chemical glassware, but he did not supply us with all of the data, by any means. If I recall the substance of what he said, it amounted to about this: That during the war the industry was built up in the United States; that it was an important industry, one which should be encouraged and sustained. I have no objection to considering the matter from that point of view.

Until about the time of the war no chemical glassware of any consequence was made in this country. Most of it came from Germany and Belgium; but during the war our people engaged in the glassware industry began to produce it. They not only succeeded but they succeeded in producing an article much better than had ever before been produced, and, as stated in the letter read by the Senator from New Jersey, in some of these lines, and the most important line, the American product to-day, at present prices, is cheaper than the foreign product at the foreign price. It is so stated in that letter which the Senator read:

One line of glassware especially has become famous as having no superior in any country, and, when life is taken into consideration, there is no cheaper glassware made.

The Tariff Commission in its examination of the subject reached the same conclusion and made substantially the same statement. The foreign chemical glassware was very easily broken. It could not stand or did not stand the wear; and I want to make the statement that when the Tariff Commission examined this subject and inquired of manufacturers as to the amount of duty which they wanted to have, the manufacturers said that the existing duty was sufficient.

In the first place—

The ordinary equipment of a glass factory for the blowing of bulbs and bottles suffices for the production of chemical hollow-blown ware. Molds, blowpipes, and furnaces constitute the principal equipment, and are the same in all countries.

Then, speaking of the methods and processes, the Tariff Commission say:

Methods and processes: The making of hollow blown chemical ware is similar to that of incandescent lamp bulbs and bottles. Lamp-blown and volumetric ware made from tubing, and often according to designs of laboratory scientists, and from the factory blanks, is the work of specially trained artisans. There are less than 250 workmen of this class in the United States—

That was in 1916—

for the most part brought from the Thuringian factories of Germany. Since the war one American firm has developed the use of machinery to do in part what was laboriously done by hand in Germany in the manufacture of the great variety of products coming under the head of "lamp-blown and volumetric ware."

Here is what is said about the amount of the duty:

The manufacturers that have established this new industry in the United States since 1914 are satisfied with the existing rate of duty of 45 per cent ad valorem, but urge that the provision in paragraph 573, which admitted about half of the total chemical ware imported free of duty, be repealed and that all chemical ware be made dutiable at 45 per cent ad valorem. They state that this is necessary in order to encourage and build up their new industry; that large quantities of the ware used in educational institutions are not required to be of a high grade, and therefore the cheaper ware will be imported free of duty when normal trade conditions are restored; and that while they can compete under the existing rate of 45 per cent, they can not compete with duty-free ware.

That was the question which was presented to the Finance Committee by the manufacturers of this ware. Under section 573 of the existing law this class of ware is duty free to colleges and to institutions of learning, and it was that which the manufacturers were complaining against. They were not complaining as to the rate of duty now existing on it. They did not ask that the duty be increased from 45 per cent to 75 per cent, as this bill increases it, but they asked that these instruments intended for the institutions of the country be put on the dutiable list, and that is a very interesting piece of the tariff history of our country.

Mr. SMOOT. The Senator must know that in the testimony the witnesses testified that 45 per cent on the American valuation was sufficient. That is what they were asking for in the American valuation.

Mr. JONES of New Mexico. The Tariff Commission does not say anything about 45 per cent on the American valuation.

Mr. SMOOT. The Senator said it was the testimony of the manufacturers themselves.

Mr. JONES of New Mexico. I have just read that the Tariff Commission reports that that is what the manufacturers said. It is not what was said before the committee. Here is the report of a commission appointed by the United States Government to ascertain just such facts as these.

Mr. SMOOT. I understood the Senator to say that the manufacturers testified before the Finance Committee that 45 per cent was all they wanted.

Mr. JONES of New Mexico. No; I said that the Tariff Commission found that that was all the manufacturers of this country wanted.

Mr. LA FOLLETTE. They were not talking about American valuation at all.

Mr. JONES of New Mexico. They were not talking about American valuation; on the contrary, they said the existing duty was sufficient, which is 45 per cent ad valorem on the foreign valuation.

Mr. SMOOT. I misunderstood the Senator.

Mr. JONES of New Mexico. Yes; the Senator did. What they complain of is having the chemical glassware, used in the educational and scientific institutions of the country, come in free of duty, and that is really a most interesting bit of the tariff history of the country. The bill proposes to take that scientific glassware and put it in this paragraph, in the dutiable list; it proposes to do everything the manufacturers of the country said they wanted done, and then, after having done that, increase the duty on the whole business from 45 to 75 per cent. It can not be possible, it seems to me, that anyone has given careful consideration to this subject.

Mr. SMOOT. The Senator was reading from the report made by the Tariff Commission in January, 1918, at a time when the mark was not as it is to-day.

Mr. JONES of New Mexico. No; this is since the war.

Mr. SMOOT. I read from the Tariff Information Survey, which says:

At the Pittsburgh conference of the Tariff Commission in January, 1918, manufacturers who began the making of this ware when our supply was cut off from Germany, and who are now supplying the domestic demand, strongly objected to the importation free of duty of laboratory ware for educational institutions.

The mark was quite different in 1918. At that time no one had ever thought there would be the competition which has developed since 1918 in this ware.

Mr. JONES of New Mexico. I am a little astonished at the statement of the Senator from Utah about the competition in this ware. There is very little of the ware coming in at all.

Mr. SMOOT. That is a question we can discuss when we reach it. I am simply calling attention to the fact that the statement by the Tariff Commission does not apply to-day at all. It was made in 1918, during the war.

Mr. JONES of New Mexico. What the Tariff Commission said in this survey has been corroborated by everything that has occurred since it was made. There has been no flood of imports of any glassware into this country.

Mr. SMOOT. The Senator does not say that the importation has not been increasing since 1918?

Mr. JONES of New Mexico. Of course, in 1918 none of it was imported.

Mr. SMOOT. That is when this statement was made.

Mr. JONES of New Mexico. I am taking the record prior to the war, and the last information we have on the subject.

Mr. SMOOT. We never made it in this country prior to the war.

Mr. JONES of New Mexico. But I am taking the importations of it.

Mr. SMOOT. We imported all that was used in this country.

Mr. JONES of New Mexico. That is true; but the Senator has no information showing any great flood of imports of this ware, or any other glassware.

Mr. SMOOT. All the information I have is what is shown by the Tariff Commission.

Mr. LA FOLLETTE. What are the imports?

Mr. SMOOT. It is divided up in different sections. The imports of chemical glassware in 1918 were $33,786; in 1919 they were $62,181; in 1920 they were $190,624. Up to 1918 there was an absolute embargo on account of the war, and we never made any of it before the war. There was none made in this country.

Mr. FRELINGHUYSEN. Mr. President, I understand the Senator calls the Senate's attention to the fact that optical and chemical glass men asked 45 per cent in 1918. Is that true?

Mr. JONES of New Mexico. I read from the survey of the Tariff Commission to that effect.

Mr. FRELINGHUYSEN. The value of the mark in 1918 was, I am informed, 24 cents. I do not think it was as high as that. I think it was about 12 to 14 cents. To-day it is worth a quarter of a cent. It makes a big difference in the rate asked. I call the Senator's attention to page 5271 of the hearings before the Finance Committee, in which they asked for 60 per cent ad valorem on the American valuation.

Mr. JONES of New Mexico. I understand that finally some of the parties in interest went before the Finance Committee and made these claims, and I understand further that upon the basis of the claims stated the proposed duty is entirely inadequate. The statement which the Senator holds in his hand proves too much. It is based on one or two factors which, if taken alone, would show that it would be absolute folly for anybody in the United States, even under a 75 per cent duty, to undertake to produce any of the chemical glassware in the United States. It is based simply upon the difference in the price of labor in Germany and the price in this country. It does not take into consideration the many other things which must be considered in the discussion of this subject.

If you base your rate of duty upon those facts alone which were stated in the testimony which the Senator has, you will find that we get nowhere with a 75 per cent duty. Only the partial truth has been told.

Moreover, the facts as stated in that testimony were all true at the time, and with reference to the time when the subject was being investigated, but that takes into consideration nothing regarding the great change in conditions in Belgium, Germany, and Czechoslovakia. The Senator must know that there are other factors entering into the question; that the labor wage has increased enormously since the statement which he has in his hand was made, since the investigation to which it refers was made.

The Senator must take into consideration other factors—that this industry has been built up in the United States; that to manufacture glassware requires fuel in great quantities, and of the best kind. Those countries are handicapped in that regard. Belgium has not recoverd from the war. These countries are not producing. The imports are small compared with the period prior to the war, and nowhere does any witness mention anything which has not changed for the better since it was made, and in favor of the industry in the United States.

It does seem to me that we ought not to make this tariff solely because of conditions which exist in Germany. We hear Germany upon every hand. I think by this time Senators have come to realize that when reference is made to Germany, it is made not for the purpose of giving a reason for these duties, but for the purpose of affording an excuse. If these things can be produced in Germany with the relatively low costs which have been constantly called to our attention, why is not this country flooded with these commodities? If they can be produced two or three hundred per cent cheaper than in this country, why do they not come here? Will Senators longer seriously accept reference to the German situation?

Mr. President, last year the total importations from Germany were less than $90,000,000, but our exports to Germany were nearly $400,000,000. Because of that paltry $89,000,000 Senators would seriously rise here and undertake to frighten us with respect to practically every item in the tariff bill. It seems to me that the patience of serious-minded people would soon pass away. Why do you want to listen to such talk as that when you know we are not doing business on any such basis? But that is all. When we seek for reasons they furnish us excuses.

Mr. President, I observe it is the usual time for taking a recess, and I know that Senators are anxious to get away. I wish to discuss the subject on Wednesday in a rather connected way. So if it is satisfactory to the Senator from North Dakota I will stop now.

EXECUTIVE SESSION.

Mr. McCUMBER. To-morrow being a holiday I had hoped that we might possibly run until 12 o'clock to-night. However, there seems to be some disinclination among Senators to hold that late. Therefore I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened and the Senate (at 10 o'clock and 10 minutes p. m.), under the order previously entered, took a recess until to-morrow, Tuesday, May 30, 1922, at 1.25 o'clock p. m.

NOMINATIONS.

Executive nominations received by the Senate May 29 (legislative day of April 20), 1922.

ASSISTANT REGISTER OF THE TREASURY.

Frank A. DeGroot, of Michigan, to be Assistant Register of the Treasury, to fill an existing vacancy.

COLLECTOR OF CUSTOMS.

Jennie P. Musser, of Salt Lake City, Utah, to be collector of customs for customs collection district No. 48, with headquarters at Salt Lake City, Utah, in place of Estelle V. Collier, resigned.

APPRAISER OF MERCHANDISE.

W. O. Jackson, of Springfield, Ohio, to be appraiser of merchandise in customs collection district No. 41, with headquarters at Cincinnati, Ohio, in place of Thomas Butterworth, resigned. This nomination is to take the place of the one heretofore sent in the name of Oscar W. Jackson and is to correct the name.

APPOINTMENT IN COAST AND GEODETIC SURVEY.

Angus Raymond Jessup, of Virginia, to be aid, with relative rank of ensign in the Navy, in the Coast and Geodetic Survey, vice Benjamin Galos, removed.

PROMOTIONS IN THE NAVY.

The following-named midshipmen to be ensigns in the Navy from the 3d day of June, 1922:

Harold L. Fudge.
Carl R. Brown.
William H. Egan, jr.
Beverly M. Coleman.

POSTMASTERS.

CALIFORNIA.

Fred A. Lindley to be postmaster at Pismo, Calif. Office became presidential January 1, 1922.

Frances L. Musgrove to be postmaster at Arbuckle, Calif., in place of F. L. Musgrove. Incumbent's commission expired April 8, 1922.

John L. Childs to be postmaster at Crescent City, Calif., in place of J. M. Hamilton. Appointee declined.

Jennie Kinney to be postmaster at San Quentin, Calif., in place of M. G. Mails. Name changed by marriage.

CONNECTICUT.

Henry F. Hanmer to be postmaster at Wethersfield, Conn., in place of H. W. Crane, resigned.

GEORGIA.

Philetus D. Wootten to be postmaster at Abbeville, Ga., in place of P. D. Wootten. Incumbent's commission expired March 21, 1922.

Gordon G. Ridgway to be postmaster at Royston, Ga., in place of R. C. Ayers. Incumbent's commission expired April 8, 1922.

HAWAII.

Carl Spillner to be postmaster at Makaweli, Hawaii, in place of B. D. Baldwin, resigned.

Jacintho S. Medeiros to be postmaster at Puunene, Hawaii, in place of J. S. Medeiros. Incumbent's commission expired January 24, 1922.

MARYLAND.

Charles W. Glasgow to be postmaster at Street, Md. Office became presidential April 1, 1921.

MINNESOTA.

Emil Kukkola to be postmaster at Finlayson, Minn. Office became presidential July 1, 1920.

Arthur L. Hamilton to be postmaster at Aitkin, Minn., in place of John Svedberg. Incumbent's commission expired July 21, 1920.

Asa R. Woodbeck to be postmaster at Brookpark, Minn., in place of L. L. Johnson. Incumbent's commission expired August 7, 1921.

Lawrence J. Nasett to be postmaster at Robbinsdale, Minn., in place of J. I. Nasett, resigned.

Harry M. Logan to be postmaster at Royalton, Minn., in place of W. L. McGonagle. Incumbent's commission expired January 24, 1922.

Irving J. Jandro to be postmaster at Waverly, Minn., in place of J. F. McDonnell, resigned.

MONTANA.

Jack Bennett to be postmaster at Plentywood, Mont., in place of I. A. Oakes, resigned.

NEBRASKA.

Marie A. Lybolt to be postmaster at Brunswick, Nebr., in place of M. A. Lybolt. Incumbent's commission expired February 4, 1922.

NEW YORK.

Seward Latham to be postmaster at Central Bridge, N. Y. Office became presidential October 1, 1920.

Frank S. Duncan to be postmaster at Lawrence, N. Y., in place of T. D. Mulcahy. Incumbent's commission expired May 24, 1920.

Violet Breen to be postmaster at Roslyn Heights, N. Y., in place of J. K. Stillwell. Appointee declined.

NORTH CAROLINA.

Luther J. Tucker to be postmaster at Maxton, N. C., in place of B. F. Nicholson. Incumbent's commission expired March 8, 1922.

OHIO.

Joseph E. W. Greene to be postmaster at Newport, Ohio. Office became presidential April 1, 1921.

Julius R. Bruns to be postmaster at St. Henry, Ohio. Office became presidential January 1, 1921.

Cleona M. Dunnick to be postmaster at Ashville, Ohio, in place of S. C. Allison. Incumbent's commission expired January 31, 1922.

OKLAHOMA.

George F. Cutshall to be postmaster at Cement, Okla., in place of A. C. Melton, resigned.

OREGON.

Charles M. Crittenden to be postmaster at Hubbard, Oreg., in place of C. M. Crittenden. Incumbent's commission expired April 30, 1922.

Thomas J. Warren to be postmaster at McMinnville, Oreg., in place of W. L. Hembree, resigned.

PENNSYLVANIA.

Albert D. Karstetter to be postmaster at Loganton, Pa. Office became presidential April 1, 1922.

Emery E. Thompson to be postmaster at Elizabeth, Pa., in place of C. L. Sadler, resigned.

SOUTH CAROLINA.

Ralph W. Wall to be postmaster at Campobello, S. C., in place of E. L. Fagan. Incumbent's commission expired April 30, 1922.

TEXAS.

Henry E. Cannon to be postmaster at Shelbyville, Tex. Office became presidential April 1, 1921.

Bert J. McDowell to be postmaster at Del Rio, Tex., in place of F. M. Brady, resigned.

Daisy M. Singleton to be postmaster at Marble Falls, Tex., in place of C. E. Smith. Incumbent's commission expired January 24, 1922.

Ada A. Ladner to be postmaster at Yorktown, Tex., in place of C. F. Hoff, resigned.

WEST VIRGINIA.

Charles J. Parsons to be postmaster at Sabraton, W. Va., in place of L. H. Jones, resigned.

WISCONSIN.

Peter O. Virum to be postmaster at Junction, Wis. Office became presidential January 1, 1921.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 29 (legislative day of April 20), 1922.

PROMOTIONS IN THE NAVY.

MARINE CORPS.

To be second lieutenants.

Biehl, Frederick Wagner.
Birthright, Frank Burroughs.
Brown, Charles Campbell.
Coffman, Raymond Paul.
Conradt, Pierson Ellsworth.
Crisp, Charles Frederick.
Deese, Rupert Riley.
DeWitt, Ralph Birchard.
Donehoo, John Curling, jr.
Dunkelberger, Harry Edward
Forsyth, Ralph Edward.
Godin, Richard James.
Huff, Howard Reid.
Jerome, Clayton Charles.
Larson, Emery Ellsworth.
McHugh, James Marshall.
Miller, Lyman Gano.
Mitchell, William Montgomery
Orr, William Willard.
O'Shea, George Joseph.
Price, Eugene Hayden.
Riseley, James Profit.
Skidmore, Robert Louis.
Taylor, Edward Dickinson
Weaver, John Buxton.

POSTMASTERS.

CALIFORNIA.

Edward D. Mahood, Corte Madera.
Attilio C. Martinelli, Inverness.
James E. Power, San Francisco.

GEORGIA.

Robert L. Ehman, Stone Mountain.

KENTUCKY.

Arta Henderson, Eubank.
Boyd M. Williams, Kenvir.
Robert L. Jones, Morganfield.

MARYLAND.

Charles W. Meyer, East New Market.

NEW YORK.

Charles H. Strong, Washingtonville.

PENNSYLVANIA.

Enoch A. Raush, Auburn.
William B. Baker, Claysburg.
Fred W. Patterson, Lattimer Mines.
John C. Wilson, Mercersburg.
Charles E. Lear, Riddlesburg.
Zola K. Rodkey, Spangler.

SOUTH CAROLINA.

John E. Folger, Easley.
Daniel B. Woodward, McCormick.

SOUTH DAKOTA.

James T. Leahy, Fedora.

WASHINGTON.

Paul E. Wise, Buena.
Andrew F. Farris, Dryden.
Charles N. Stutsman, Manson.

WEST VIRGINIA.

Mayo M. King, Coalwood.

SENATE.

TUESDAY, *May 30, 1922.*

(Legislative day of Thursday, April 20, 1922.)

The Senate met at 1.25 p. m., on the expiration of the recess.

THE TARIFF.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7456) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes.

The VICE PRESIDENT. The Secretary will state the pending question.

The ASSISTANT SECRETARY. The pending amendment is, on page 39, after line 18, to strike out paragraph 218 and to insert a new paragraph 218.